

(Pub. L. 99-660, title IX, §964, Nov. 14, 1986, 100 Stat. 3815; Pub. L. 102-507, §8(b), Oct. 24, 1992, 106 Stat. 3287.)

#### AMENDMENTS

1992—Pub. L. 102-507 designated existing provisions as subsec. (a), substituted “sections 11291 and 11293 of this title” for “this subchapter”, and added subsec. (b).

### CHAPTER 119—HOMELESS ASSISTANCE

#### SUBCHAPTER I—GENERAL PROVISIONS

Sec.	
11301.	Findings and purpose.
11302.	General definition of homeless individual.
11303.	Funding availability and limitations.
11304.	Evaluation by Comptroller General.

#### SUBCHAPTER II—UNITED STATES INTERAGENCY COUNCIL ON HOMELESSNESS

11311.	Establishment.
11312.	Membership.
11313.	Functions.
11314.	Director and staff.
11315.	Powers.
11316.	Transfer of functions.
11317.	Definitions.
11318.	Authorization of appropriations.
11319.	Termination.
11320.	Encouragement of State involvement.

#### SUBCHAPTER III—FEDERAL EMERGENCY MANAGEMENT FOOD AND SHELTER PROGRAM

##### PART A—ADMINISTRATIVE PROVISIONS

11331.	Emergency Food and Shelter Program National Board.
11332.	Local boards.
11333.	Role of Federal Emergency Management Agency.
11334.	Records and audit of National Board and recipients of assistance.
11335.	Annual report.

##### PART B—EMERGENCY FOOD AND SHELTER GRANTS

11341.	Grants by Director.
11342.	Retention of interest earned.
11343.	Purposes of grants.
11344.	Limitation on certain costs.
11345.	Disbursement of funds.
11346.	Program guidelines.

##### PART C—GENERAL PROVISIONS

11351.	Definitions.
11352.	Authorization of appropriations.

#### SUBCHAPTER IV—HOUSING ASSISTANCE

##### PART A—COMPREHENSIVE HOMELESS ASSISTANCE PLAN

11360.	Definitions.
11360a.	Collaborative applicants.
11361.	Housing affordability strategy.
11361a.	Preventing involuntary family separation.
11361b.	Technical assistance.
11362.	Discharge coordination policy.
11363.	Protection of personally identifying information by victim service providers.
11364.	Authorization of appropriations.

##### PART B—EMERGENCY SHELTER GRANTS PROGRAM

11371.	Definitions.
11372.	Grant assistance.
11372a.	Amount and allocation of assistance.
11373.	Allocation and distribution of assistance.
11374.	Eligible activities.
11375.	Responsibilities of recipients.

Sec.	
11376.	Administrative provisions.
11377.	Authorization of appropriations.
11378.	Administrative costs.

#### PART C—SUPPORTIVE HOUSING PROGRAM

11381.	Purpose.
11382.	Definitions.
11383.	Eligible activities.
11384.	Supportive housing.
11385.	Supportive services.
11386.	Program requirements.
11386a.	Selection criteria.
11386b.	Allocation of amounts and incentives for specific eligible activities.
11386c.	Renewal funding and terms of assistance for permanent housing.
11386d.	Matching funding.
11386e.	Appeal procedure.
11387.	Regulations.
11388.	Reports to Congress.
11389.	Authorization of appropriations.

#### PART D—SAFE HAVENS FOR HOMELESS INDIVIDUALS DEMONSTRATION PROGRAM

11391.	Establishment of demonstration.
11392.	Definitions.
11393.	Program assistance.
11394.	Program requirements.
11395.	Occupancy charge.
11396.	Termination of assistance.
11397.	Evaluation and report.
11398.	Regulations.
11399.	Authorization of appropriations.

#### PART E—MISCELLANEOUS PROVISIONS

11401.	Section 1437f assistance for single room occupancy dwellings.
11402.	Environmental review.

#### PART F—SHELTER PLUS CARE PROGRAM

##### SUBPART I—GENERAL REQUIREMENTS

11403.	Purpose.
11403a.	Rental housing assistance.
11403b.	Supportive services requirements.
11403c.	Applications.
11403d.	Selection criteria.
11403e.	Required agreements.
11403e-1.	Housing standards and rent reasonableness.
11403e-2.	Tenant rent.
11403e-3.	Administrative fees.
11403e-4.	Occupancy.
11403f.	Termination of assistance.
11403f-1.	Term of contract with owner or lessor.
11403g.	Definitions.
11403h.	Authorization of appropriations.

##### SUBPART II—TENANT-BASED RENTAL ASSISTANCE

11404.	Authority.
11404a.	Housing assistance.
11404b.	Amount of assistance.
11404c to 11404e.	Transferred.

##### SUBPART III—PROJECT-BASED RENTAL ASSISTANCE

11405.	Authority.
11405a.	Housing assistance.
11405b.	Term of contract and amount of assistance.

##### SUBPART IV—SPONSOR-BASED RENTAL ASSISTANCE

11406.	Authority.
11406a.	Housing assistance.
11406b.	Term of contract and amount of assistance.

##### SUBPART V—SECTION 1437F MODERATE REHABILITATION ASSISTANCE FOR SINGLE-ROOM OCCUPANCY DWELLINGS

11407.	Authority.
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- Sec.  
11407a. Fire and safety improvements.  
11407b. Contract requirements.

PART G—RURAL HOMELESS HOUSING ASSISTANCE

11408. Rural homelessness grant program.  
11408a. Use of FMHA inventory for transitional housing for homeless persons and for turnkey housing.

SUBCHAPTER V—IDENTIFICATION AND USE OF SURPLUS FEDERAL PROPERTY

11411. Use of unutilized and underutilized public buildings and real property to assist the homeless.  
11412. Making surplus personal property available to nonprofit agencies.

SUBCHAPTER VI—EDUCATION AND TRAINING

PART A—ADULT EDUCATION FOR HOMELESS

11421. Repealed.

PART B—EDUCATION FOR HOMELESS CHILDREN AND YOUTHS

11431. Statement of policy.  
11432. Grants for State and local activities for the education of homeless children and youths.  
11433. Local educational agency subgrants for the education of homeless children and youths.  
11434. Secretarial responsibilities.  
11434a. Definitions.  
11435. Authorization of appropriations.

PART C—JOB TRAINING FOR HOMELESS

- 11441 to 11450. Repealed.

PART D—EMERGENCY COMMUNITY SERVICES HOMELESS GRANT PROGRAM

- 11461 to 11466. Repealed.

PART E—MISCELLANEOUS PROVISIONS

- 11471, 11472. Repealed.

PART F—FAMILY SUPPORT CENTERS

- 11481 to 11489. Repealed.

SUBCHAPTER I—GENERAL PROVISIONS

§ 11301. Findings and purpose

(a) Findings

The Congress finds that—

(1) the Nation faces an immediate and unprecedented crisis due to the lack of shelter for a growing number of individuals and families, including elderly persons, handicapped persons, families with children, Native Americans, and veterans;

(2) the problem of homelessness has become more severe and, in the absence of more effective efforts, is expected to become dramatically worse, endangering the lives and safety of the homeless;

(3) the causes of homelessness are many and complex, and homeless individuals have diverse needs;

(4) there is no single, simple solution to the problem of homelessness because of the different subpopulations of the homeless, the different causes of and reasons for homelessness, and the different needs of homeless individuals;

(5) due to the record increase in homelessness, States, units of local government, and

private voluntary organizations have been unable to meet the basic human needs of all the homeless and, in the absence of greater Federal assistance, will be unable to protect the lives and safety of all the homeless in need of assistance; and

(6) the Federal Government has a clear responsibility and an existing capacity to fulfill a more effective and responsible role to meet the basic human needs and to engender respect for the human dignity of the homeless.

(b) Purpose

It is the purpose of this chapter—

(1) to establish the United States Interagency Council on Homelessness;

(2) to use public resources and programs in a more coordinated manner to meet the critically urgent needs of the homeless of the Nation; and

(3) to provide funds for programs to assist the homeless, with special emphasis on elderly persons, handicapped persons, families with children, Native Americans, and veterans.

(Pub. L. 100-77, title I, § 102, July 22, 1987, 101 Stat. 484; Pub. L. 108-199, div. G, title II, § 216(2), Jan. 23, 2004, 118 Stat. 394.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original “this Act”, meaning Pub. L. 100-77, July 22, 1987, 101 Stat. 482, known as the McKinney-Vento Homeless Assistance Act. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

AMENDMENTS

2004—Subsec. (b)(1). Pub. L. 108-199 substituted “the United States Interagency Council on Homelessness” for “an Interagency Council on the Homeless”.

SHORT TITLE OF 2009 AMENDMENT

Pub. L. 111-22, div. B, § 1001(a), May 20, 2009, 123 Stat. 1663, provided that: “This division [enacting sections 11318, 11360, 11360a, 11361a, 11361b, 11363, 11364, 11372, 11372a, 11374, 11381 to 11384, and 11386a to 11386e of this title, redesignating part G of subchapter IV of this chapter as part D of subchapter IV of this chapter, amending sections 11302, 11311 to 11313, 11315, 11361, 11362, 11373 to 11376, 11378, 11386, 11387, 11388, and 11408 of this title, repealing sections 11318, 11372, 11374, 11377, 11381 to 11384, and 11389 of this title and parts D to F of subchapter IV of this chapter, and enacting provisions set out as notes under this section and sections 11302 and 11311 of this title] may be cited as the ‘Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009’.”

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107-110, title X, § 1031, Jan. 8, 2002, 115 Stat. 1989, provided that: “This part [part C (§§ 1031-1034) of title X of Pub. L. 107-110, enacting sections 11431 to 11435 of this title and provisions set out as a note below and amending provisions set out as a note below] may be cited as the ‘McKinney-Vento Homeless Education Assistance Improvements Act of 2001’.”

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103-421, § 1, Oct. 25, 1994, 108 Stat. 4346, provided that: “This Act [amending section 11411 of this title and enacting and amending provisions set out as notes under section 2687 of Title 10, Armed Forces] may be cited as the ‘Base Closure Community Redevelopment and Homeless Assistance Act of 1994’.”

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103-120, § 1, Oct. 27, 1993, 107 Stat. 1144, provided that: “This Act [amending sections 14900 and

12724 of this title and sections 1701z–11, 1721, and 1735f–9 of Title 12, Banks and Banking, enacting provisions set out as notes under this section and sections 1437f, 1490o, and 9816 of this title, and amending a provision set out as a note under section 1437f of this title] may be cited as the ‘HUD Demonstration Act of 1993.’”

#### SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–550, title XIV, §1401, Oct. 28, 1992, 106 Stat. 4012, provided that: “This title [enacting sections 11381 to 11389, 11391 to 11399, 11403e–4, 11404, 11405 to 11405b, 11406 to 11406b, 11407 to 11407b, 11408, and 11408a of this title, transferring sections 11404c to 11404e of this title to sections 11403e–1 to 11403e–3 of this title, respectively, amending sections 11318, 11319, 11346, 11352, 11374, 11375, 11377, 11401, 11403a, 11403c to 11403e, 11403g, 11403h, 11404a, and 11404b of this title, repealing sections 11381 to 11388, 11391 to 11394, 11404, 11405 to 11405c, and 11406 to 11406c of this title, enacting provisions set out as notes preceding section 11361 and under sections 11361, 11381, and 11411 of this title, amending provisions set out as a note under this section, and repealing provisions set out as notes under sections 11361, 11391, and 11399 of this title] may be cited as the ‘Stewart B. McKinney Homeless Housing Assistance Amendments Act of 1992.’”

#### SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–645, §1(a), Nov. 29, 1990, 104 Stat. 4673, provided that: “This Act [enacting sections 5118 to 5118e, 11434a, 11465, 11466, and 11481 to 11489 of this title and section 1703a of Title 29, Labor, amending sections 256, 290bb–2, 290cc–21 to 290cc–35, 11302, 11312, 11318, 11319, 11332, 11352, 11411, 11421, 11431 to 11435, 11443, 11449, 11450, 11463, and 11464 of this title, enacting provisions set out as notes under this section, sections 5118, 11332, 11411, and 11463 of this title, and section 141 of Title 13, Census, and amending provisions set out as a note under section 290aa–3 of this title] may be cited as the ‘Stewart B. McKinney Homeless Assistance Amendments Act of 1990.’”

Pub. L. 101–645, title VI, §601, Nov. 29, 1990, 104 Stat. 4734, provided that: “This title [enacting sections 5118 to 5118e, 11434a, 11465, 11466, and 11481 to 11489 of this title and section 1703a of Title 29, Labor, amending sections 11302, 11421, 11431 to 11435, 11443, 11449, 11450, 11463, and 11464 of this title, and enacting provisions set out as notes under sections 5118 and 11463 of this title] may be cited as the ‘Stewart B. McKinney Homeless Assistance Amendments Act of 1990.’”

#### SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–628, §1(a), Nov. 7, 1988, 102 Stat. 3224, provided that: “This Act [enacting sections 3544, 11320, and 11402 of this title and sections 1583, 1791 to 1791j of Title 29, Labor, amending sections 254e, 256, 290bb–2, 290cc–21, 290cc–28, 290cc–29, 290cc–35, 290cc–36, 290dd, 290ee, 290ee–1, 503, 504, 602, 1437d, 1437f, 1437n, 1437o, 1437r, 1472, 1480, 1484 to 1486, 1490o, 3002, 3015, 3021, 3025 to 3027, 3031, 3035a, 3056e, 4013, 4121, 4822, 5302, 5304, 5306, 5318, 8103, 11304, 11313, 11318, 11319, 11352, 11361, 11373 to 11375, 11377, 11382 to 11385, 11387, 11388, 11392, 11394, 11401, 11411, 11421, 11432, 11433, 11435, 11447, 11449, 11462 to 11464, and 11501 of this title, sections 1454, 1701x, 1701z–11, 1709, 1710, 1715z–1a, 1715z–12, 1715z–20, 1717, 2805, and 2806 of Title 12, Banks and Banking, sections 1701 and 1719 of Title 15, Commerce and Trade, and sections 49, 49a, 49b, 49d to 49j, 49l, 49l–1, 1502, 1504, 1505, 1514, 1516, 1531, and 1602 of Title 29, enacting provisions set out as notes under this section and sections 256, 1437d, 1437f, 1472, 11303, 11374, 11381, 11383, 11384, 11392, 11401, and 11501 of this title, sections 1710 and 1715z–1a of Title 12, section 2661 of Title 15, and section 1501 of Title 29, and amending provisions set out as notes under sections 290aa–3, 1472, 1490m, and 4822 of this title, sections 1701z–6, 1709, 1715f, and 2802 of Title 12, and section 49 of Title 29] may be cited as the ‘Stewart B. McKinney Homeless Assistance Amendments Act of 1988.’”

#### SHORT TITLE

Section 101(a) of Pub. L. 100–77, as amended by Pub. L. 106–400, §1, Oct. 30, 2000, 114 Stat. 1675; Pub. L.

107–110, title X, §1034(a), Jan. 8, 2002, 115 Stat. 2006; Pub. L. 107–116, title VI, §634(a), Jan. 10, 2002, 115 Stat. 2228, provided that: “This Act [enacting this chapter and sections 256 and 290cc–21 to 290cc–36 of this title, amending sections 254e, 290bb–1a, 290bb–2, and 5302 of this title, sections 2012, 2014, 2020, and 2025 of Title 7, Agriculture, sections 1205 and 1207a of Title 20, Education, sections 1503 and 1551 of Title 29, Labor, and section 484 of former Title 40, Public Buildings, Property, and Works, repealing section 256a of this title, enacting provisions set out as notes under this section and section 290aa–3 of this title and sections 2012, 2014, and 2020 of Title 7, and amending provisions set out as notes under section 612c of Title 7 and section 1721 of Title 29] may be cited as the ‘McKinney-Vento Homeless Assistance Act.’”

[Pub. L. 107–110, title X, §1034(b), Jan. 8, 2002, 115 Stat. 2007, provided that: “The amendment made by subsection (a) [amending section 1 of Pub. L. 106–400, which amended section 101(a) of Pub. L. 100–77 set out above] shall be deemed to be effective on the date of enactment of Public Law 106–400.”]

[Pub. L. 107–116, title VI, §634(b), Jan. 10, 2002, 115 Stat. 2228, provided that: “The amendment made by subsection (a) of this section [which directed the amendment of section 101(a) of Pub. L. 100–77, set out above] is deemed to have taken effect immediately after the enactment of Public Law 106–400 [which was approved Oct. 30, 2000] (114 Stat. 1675).”]

#### REGULATIONS

Pub. L. 111–22, div. B, title V, §1504, May 20, 2009, 123 Stat. 1702, provided that:

“(a) IN GENERAL.—Not later than 12 months after the date of the enactment of this division [May 20, 2009], the Secretary of Housing and Urban Development shall promulgate regulations governing the operation of the programs that are created or modified by this division [see Short Title of 2009 Amendment note above].

“(b) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this division.”

Pub. L. 100–628, title IV, §485, Nov. 7, 1988, 102 Stat. 3239, provided that: “Not later than 60 days after the date of the enactment of this Act [Nov. 7, 1988], the Secretary of Housing and Urban Development or other Federal entity involved shall by notice establish such requirements as may be necessary to carry out the amendments made by titles I through IV [see Tables for classification] and by section 501(2)(B) [amending section 11411 of this title]. The Secretary or other Federal entity involved shall issue regulations based on the notice not later than 12 months after the date of the enactment of this Act.”

#### FINDINGS AND PURPOSES

Pub. L. 111–22, div. B, §1002, May 20, 2009, 123 Stat. 1664, provided that:

“(a) FINDINGS.—The Congress finds that—

“(1) a lack of affordable housing and limited scale of housing assistance programs are the primary causes of homelessness; and

“(2) homelessness affects all types of communities in the United States, including rural, urban, and suburban areas.

“(b) PURPOSES.—The purposes of this division [see Short Title of 2009 Amendment note above] are—

“(1) to consolidate the separate homeless assistance programs carried out under title IV of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11360 et seq.] (consisting of the supportive housing program and related innovative programs, the safe havens program, the section 8 [42 U.S.C. 1437f] assistance program for single-room occupancy dwellings, and the shelter plus care program) into a single program with specific eligible activities;

“(2) to codify in Federal law the continuum of care planning process as a required and integral local function necessary to generate the local strategies for ending homelessness; and

“(3) to establish a Federal goal of ensuring that individuals and families who become homeless return to permanent housing within 30 days.”

#### REFERENCES TO STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT

Pub. L. 106-400, §2, Oct. 30, 2000, 114 Stat. 1675, provided that: “Any reference in any law, regulation, document, paper, or other record of the United States to the Stewart B. McKinney Homeless Assistance Act shall be deemed to be a reference to the ‘McKinney-Vento Homeless Assistance Act’.”

#### INNOVATIVE HOMELESS INITIATIVES DEMONSTRATION PROGRAM

Pub. L. 103-120, §2, Oct. 27, 1993, 107 Stat. 1144, as amended by Pub. L. 104-330, title V, §506(b), Oct. 26, 1996, 110 Stat. 4045, directed Secretary of Housing and Urban Development, through cooperative efforts in partnership with other levels of government and the private sector, including nonprofit organizations, foundations, and communities, to demonstrate methods of undertaking comprehensive strategies for assisting homeless individuals and families (including homeless individuals who have AIDS or who are infected with HIV), through a variety of activities, including the coordination of efforts and the filling of gaps in available services and resources, directed Secretary to provide comprehensive homeless demonstration grants and innovative project funding, and provided for submission of reports and authorization of appropriations, prior to repeal by Pub. L. 103-120, §2(g), Oct. 27, 1993, 107 Stat. 1148.

#### STRATEGY TO ELIMINATE UNFIT TRANSIENT FACILITIES

Pub. L. 101-625, title VIII, §825, Nov. 28, 1990, 104 Stat. 4356, as amended by Pub. L. 102-550, title XIV, §1412, Oct. 28, 1992, 106 Stat. 4039, directed Secretary of Housing and Urban Development, not more than 9 months after Oct. 28, 1992, to identify the States and units of general local government using unfit transient facilities as housing for homeless families with children and develop and publish in the Federal Register a strategy to eliminate such use by July 1, 1994, and in developing such strategy, to consult with the Secretary of the Department of Health and Human Services, the Administrator of the Federal Emergency Management Agency, other appropriate Federal officials, appropriate States and units of general local government, major organizations representing homeless persons and other experts.

#### REPORT ON EFFECT OF RENT CONTROL ON HOMELESSNESS

Pub. L. 100-628, title IV, §483, Nov. 7, 1988, 102 Stat. 3238, directed Secretary of Housing and Urban Development, within 12 months after Nov. 7, 1988, to submit to Congress a report evaluating the impact of local housing rent controls and regulations on rate of homelessness, and on the development, supply, availability, and affordability of housing, in major cities in the United States, with report to include additional specified information.

#### REQUIREMENT OF CERTAIN STUDY WITH RESPECT TO HOMELESSNESS

Section 603 of Pub. L. 100-77 directed Secretary of Health and Human Services, not later than 18 months after July 22, 1987, to complete a study with respect to determining extent to which mental health deinstitutionalization policies of States are contributing to problem of homelessness, and submit to Congress the findings made as a result of such study, including any recommendations with respect to administrative and legislative initiatives that could reduce the number of chronically mentally ill individuals who are homeless.

### § 11302. General definition of homeless individual

#### (a) In general

For purposes of this chapter, the term “homeless” or “homeless individual or homeless person”<sup>1</sup> includes—

(1) an individual who lacks a fixed, regular, and adequate nighttime residence; and

(2) an individual who has a primary nighttime residence that is—

(A) a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);

(B) an institution that provides a temporary residence for individuals intended to be institutionalized; or

(C) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

#### (b) Income eligibility

##### (1) In general

A homeless individual shall be eligible for assistance under any program provided by this chapter, only if the individual complies with the income eligibility requirements otherwise applicable to such program.

##### (2) Exception

Notwithstanding paragraph (1), a homeless individual shall be eligible for assistance under title I of the Workforce Investment Act of 1998 [29 U.S.C. 2801 et seq.].

#### (c) Exclusion

For purposes of this chapter, the term “homeless” or “homeless individual” does not include any individual imprisoned or otherwise detained pursuant to an Act of the Congress or a State law.

(Pub. L. 100-77, title I, §103, July 22, 1987, 101 Stat. 485; Pub. L. 101-625, title VIII, §822, Nov. 28, 1990, 104 Stat. 4355; Pub. L. 101-645, title VI, §602, Nov. 29, 1990, 104 Stat. 4734; Pub. L. 105-277, div. A, §101(f) [title VIII, §405(d)(41), (f)(32)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-427, 2681-434; Pub. L. 111-22, div. B, §1003(a), title V, §1502(b), May 20, 2009, 123 Stat. 1664, 1701.)

#### AMENDMENT OF SECTION

*Pub. L. 111-22, div. B, §1003(a), title V, §§1502(b), 1503, May 20, 2009, 123 Stat. 1664, 1701, 1702, provided that, effective on, and applicable beginning on the earlier of, the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is amended as follows:*

*(1) by striking subsection (a) and adding the following new subsection (a):*

##### “(a) In general

“For purposes of this chapter, the terms ‘homeless’, ‘homeless individual’, and ‘homeless person’ means—

<sup>1</sup> So in original. Probably should be “‘homeless individual’ or ‘homeless person’”.

“(1) an individual or family who lacks a fixed, regular, and adequate nighttime residence;

“(2) an individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;

“(3) an individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including hotels and motels paid for by Federal, State, or local government programs for low-income individuals or by charitable organizations, congregate shelters, and transitional housing);

“(4) an individual who resided in a shelter or place not meant for human habitation and who is exiting an institution where he or she temporarily resided;

“(5) an individual or family who—

“(A) will imminently lose their housing, including housing they own, rent, or live in without paying rent, are sharing with others, and rooms in hotels or motels not paid for by Federal, State, or local government programs for low-income individuals or by charitable organizations, as evidenced by—

“(i) a court order resulting from an eviction action that notifies the individual or family that they must leave within 14 days;

“(ii) the individual or family having a primary nighttime residence that is a room in a hotel or motel and where they lack the resources necessary to reside there for more than 14 days; or

“(iii) credible evidence indicating that the owner or renter of the housing will not allow the individual or family to stay for more than 14 days, and any oral statement from an individual or family seeking homeless assistance that is found to be credible shall be considered credible evidence for purposes of this clause;

“(B) has no subsequent residence identified; and

“(C) lacks the resources or support networks needed to obtain other permanent housing; and

“(6) unaccompanied youth and homeless families with children and youth defined as homeless under other Federal statutes who—

“(A) have experienced a long term period without living independently in permanent housing,

“(B) have experienced persistent instability as measured by frequent moves over such period, and

“(C) can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse, the presence of a child or youth with a disability, or multiple barriers to employment.”;

(2) by redesignating subsections (b) and (c) as (c) and (d), respectively, and adding the following new subsection (b):

“(b) Domestic violence and other dangerous or life-threatening conditions

“Notwithstanding any other provision of this section, the Secretary shall consider to be homeless any

individual or family who is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions in the individual's or family's current housing situation, including where the health and safety of children are jeopardized, and who have no other residence and lack the resources or support networks to obtain other permanent housing.”; and

(3) by adding at the end the following new subsection (e):

“(e) Persons experiencing homelessness

“Any references in this chapter to homeless individuals (including homeless persons) or homeless groups (including homeless persons) shall be considered to include, and to refer to, individuals experiencing homelessness or groups experiencing homelessness, respectively.”

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 100-77, July 22, 1987, 101 Stat. 482, known as the McKinney-Vento Homeless Assistance Act. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of this title and Tables.

The Workforce Investment Act of 1998, referred to in subsec. (b)(2), is Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936. Title I of the Act is classified principally to chapter 30 (§2801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

#### AMENDMENTS

1998—Subsec. (b)(2). Pub. L. 105-277, §101(f) [title VIII, §405(f)(32)], struck out “the Job Training Partnership Act or” after “assistance under”.

Pub. L. 105-277, §101(f) [title VIII, §405(d)(41)], substituted “the Job Training Partnership Act or title I of the Workforce Investment Act of 1998” for “the Job Training Partnership Act”.

1990—Subsec. (a). Pub. L. 101-625 inserted “or homeless person” after “homeless individual” in introductory provisions.

Subsec. (b). Pub. L. 101-645 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “A homeless individual shall be eligible for assistance under any program provided by this chapter, or by the amendments made by this Act, only if the individual complies with the income eligibility requirements otherwise applicable to such program.”

#### EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-22, div. B, title V, §1503, May 20, 2009, 123 Stat. 1702, provided that: “Except as specifically provided otherwise in this division [see Short Title of 2009 Amendment note set out under section 11301 of this title], this division and the amendments made by this division shall take effect on, and shall apply beginning on—

“(1) the expiration of the 18-month period beginning on the date of the enactment of this division [May 20, 2009], or

“(2) the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 [set out as a note under section 11301 of this title], whichever occurs first.”

#### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 101(f) [title VIII, §405(d)(41)] of Pub. L. 105-277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, §405(f)(32)] of Pub. L. 105-277

effective July 1, 2000, see section 101(f) [title VIII, §405(g)(1), (2)(B)] of Pub. L. 105-277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

#### REGULATIONS

Pub. L. 111-22, div. B, §1003(b), May 20, 2009, 123 Stat. 1666, provided that: “Not later than the expiration of the 6-month period beginning upon the date of the enactment of this division [May 20, 2009], the Secretary of Housing and Urban Development shall issue regulations that provide sufficient guidance to recipients of funds under title IV of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11360 et seq.] to allow uniform and consistent implementation of the requirements of section 103 of such Act [42 U.S.C. 11302], as amended by subsection (a) of this section. This subsection shall take effect on the date of the enactment of this division.”

#### CLARIFICATION OF EFFECT ON OTHER LAWS

Pub. L. 111-22, div. B, §1003(c), May 20, 2009, 123 Stat. 1666, provided that: “This section [amending this section and enacting provisions set out as a note under this section] and the amendments made by this section to section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) may not be construed to affect, alter, limit, annul, or supersede any other provision of Federal law providing a definition of ‘homeless’, ‘homeless individual’, or ‘homeless person’ for purposes other than such Act [42 U.S.C. 11301 et seq.], except to the extent that such provision refers to such section 103 or the definition provided in such section 103.”

### § 11303. Funding availability and limitations

#### (a) Calculation

The amounts authorized in this chapter shall be in addition to any amount appropriated for the programs involved before July 22, 1987.

#### (b) Availability until expended

Any amount appropriated under an authorization in this chapter shall remain available until expended.

#### (c) Limitation

Appropriations pursuant to the authorizations in this chapter shall be made in accordance with the provisions of the Congressional Budget and Impoundment Control Act of 1974, which prohibits the consideration of any bill that would cause the deficit to exceed the levels established by the Balanced Budget and Emergency Deficit Control Act of 1985, such that it shall not increase the deficit of the Federal Government for fiscal year 1987.

(Pub. L. 100-77, title I, §104, July 22, 1987, 101 Stat. 485.)

#### REFERENCES IN TEXT

The Congressional Budget and Impoundment Control Act of 1974, referred to in subsec. (c), is Pub. L. 93-344, July 12, 1974, 88 Stat. 297, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2, The Congress, and Tables.

The Balanced Budget and Emergency Deficit Control Act of 1985, referred to in subsec. (c), is title II of Pub. L. 99-177, Dec. 12, 1985, 99 Stat. 1038, as amended, which enacted chapter 20 (§900 et seq.) and sections 654 to 656 of Title 2, amended section 911 of this title, sections 602, 622, 631 to 642, and 651 to 653 of Title 2, and sections 1104 to 1106, and 1109 of Title 31, Money and Finance, repealed section 661 of Title 2, enacted provisions set out as notes under section 911 of this title and section 900

of Title 2, and amended provisions set out as a note under section 621 of Title 2. For complete classification of this Act to the Code, see Short Title note set out under section 900 of Title 2 and Tables.

#### BUDGET COMPLIANCE

Pub. L. 100-628, title I, §101, Nov. 7, 1988, 102 Stat. 3227, provided that:

“(a) IN GENERAL.—This Act and the amendments made by this Act [see Short Title of 1988 Amendment note set out under section 11301 of this title] may not be construed to provide for new budget authority, budget outlays, or new entitlement authority, for fiscal year 1989 or 1990 in excess of the appropriate aggregate levels established by the concurrent resolution on the budget for such fiscal year for the programs authorized by this Act and the amendments made by this Act.

“(b) DEFINITIONS.—For purposes of this section, the terms ‘budget authority’, ‘budget outlays’, ‘concurrent resolution on the budget’, and ‘entitlement authority’ have the meanings given such terms in section 3 of the Congressional Budget Act of 1974 (2 U.S.C. 622).”

### § 11304. Evaluation by Comptroller General

The Comptroller General of the United States may evaluate the disbursement and use of the amounts made available by appropriation Acts under the authorizations in subchapters III and IV of this chapter.

(Pub. L. 100-77, title I, §105, July 22, 1987, 101 Stat. 486; Pub. L. 100-628, title I, §102(a), (b)(1), Nov. 7, 1988, 102 Stat. 3227; Pub. L. 104-316, title I, §122(t), Oct. 19, 1996, 110 Stat. 3838.)

#### AMENDMENTS

1996—Pub. L. 104-316 substituted “may” for “shall annually” and struck out “, and submit to the Congress an annual summary of the status of each program authorized under this chapter” before period at end.

1988—Pub. L. 100-628 substituted “Annual program summary” for “Audits” in section catchline and, in text, substituted “shall annually evaluate” for “shall evaluate” and “submit to the Congress an annual summary of the status of each program authorized under this chapter” for “submit a report to the Congress setting forth the findings of such evaluation, upon the expiration of the 4-month and 12-month periods beginning on July 22, 1987”.

### SUBCHAPTER II—UNITED STATES INTER-AGENCY COUNCIL ON HOMELESSNESS

#### AMENDMENTS

2004—Pub. L. 108-199, div. G, title II, §216(3), Jan. 23, 2004, 118 Stat. 394, substituted “UNITED STATES INTERAGENCY COUNCIL ON HOMELESSNESS” for “INTERAGENCY COUNCIL ON THE HOMELESS” in subchapter heading.

### § 11311. Establishment

There is established in the executive branch an independent establishment to be known as the United States Interagency Council on Homelessness whose mission shall be to coordinate the Federal response to homelessness and to create a national partnership at every level of government and with the private sector to reduce and end homelessness in the nation while maximizing the effectiveness of the Federal Government in contributing to the end of homelessness.

(Pub. L. 100-77, title II, §201, July 22, 1987, 101 Stat. 486; Pub. L. 108-199, div. G, title II, §216(4), Jan. 23, 2004, 118 Stat. 394; Pub. L. 111-22, div. B, §1004(a)(1), May 20, 2009, 123 Stat. 1666.)

## AMENDMENTS

2009—Pub. L. 111-22 inserted before period at end “whose mission shall be to coordinate the Federal response to homelessness and to create a national partnership at every level of government and with the private sector to reduce and end homelessness in the nation while maximizing the effectiveness of the Federal Government in contributing to the end of homelessness”.

2004—Pub. L. 108-199 substituted “United States Interagency Council on Homelessness” for “Interagency Council on the Homeless”.

## EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-22, div. B, §1004(b), May 20, 2009, 123 Stat. 1668, provided that: “The amendments made by subsection (a) [enacting section 11318 of this title, amending this section and sections 11312, 11313, and 11315 of this title, and repealing former section 11318 of this title] shall take effect on, and shall apply beginning on, the date of the enactment of this division [May 20, 2009].”

## § 11312. Membership

## (a) Members

The Council shall be composed of the following members:

- (1) The Secretary of Agriculture, or the designee of the Secretary.
- (2) The Secretary of Commerce, or the designee of the Secretary.
- (3) The Secretary of Defense, or the designee of the Secretary.
- (4) The Secretary of Education, or the designee of the Secretary.
- (5) The Secretary of Energy, or the designee of the Secretary.
- (6) The Secretary of Health and Human Services, or the designee of the Secretary.
- (7) The Secretary of Housing and Urban Development, or the designee of the Secretary.
- (8) The Secretary of the Interior, or the designee of the Secretary.
- (9) The Secretary of Labor, or the designee of the Secretary.
- (10) The Secretary of Transportation, or the designee of the Secretary.
- (11) The Secretary of Veterans Affairs, or the designee of the Secretary.
- (12) The Chief Executive Officer of the Corporation for National and Community Service, or the designee of the Chief Executive Officer.
- (13) The Administrator of the Federal Emergency Management Agency, or the designee of the Administrator.
- (14) The Administrator of General Services, or the designee of the Administrator.
- (15) The Postmaster General of the United States, or the designee of the Postmaster General.
- (16) The Commissioner of Social Security, or the designee of the Commissioner.
- (17) The Attorney General of the United States, or the designee of the Attorney General.
- (18) The Director of the Office of Management and Budget, or the designee of the Director.
- (19) The Director of the Office of Faith-Based and Community Initiatives, or the designee of the Director.
- (20) The Director of USA FreedomCorps, or the designee of the Director.

(22)<sup>1</sup> The heads of such other Federal agencies as the Council considers appropriate, or their designees.

## (b) Chairperson

The Council shall elect a Chairperson and a Vice Chairperson from among its members. The positions of Chairperson and Vice Chairperson shall rotate among its members on an annual basis.

## (c) Meetings

The Council shall meet at the call of its Chairperson or a majority of its members, but not less often than four times each year, and the rotation of the positions of Chairperson and Vice Chairperson required under subsection (b) shall occur at the first meeting of each year.

## (d) Prohibition of additional pay

Members of the Council shall receive no additional pay, allowances, or benefits by reason of their service on the Council.

## (e) Administration

The Executive Director of the Council shall report to the Chairman of the Council.

(Pub. L. 100-77, title II, §202, July 22, 1987, 101 Stat. 486; Pub. L. 101-645, title I, §101, Nov. 29, 1990, 104 Stat. 4674; Pub. L. 103-82, title IV, §405(m), Sept. 21, 1993, 107 Stat. 922; Pub. L. 106-377, §1(a)(1) [title II, §231(1)], Oct. 27, 2000, 114 Stat. 1441, 1441A-31; Pub. L. 107-95, §11, Dec. 21, 2001, 115 Stat. 920; Pub. L. 109-295, title VI, §612(c), Oct. 4, 2006, 120 Stat. 1410; Pub. L. 111-22, div. B, §1004(a)(2), May 20, 2009, 123 Stat. 1666.)

## AMENDMENTS

2009—Subsec. (a)(16) to (20), (22). Pub. L. 111-22, §1004(a)(2)(A), added pars. (16) to (20) and redesignated former par. (16) as (22).

Subsec. (c). Pub. L. 111-22, §1004(a)(2)(B), substituted “four times each year, and the rotation of the positions of Chairperson and Vice Chairperson required under subsection (b) shall occur at the first meeting of each year” for “annually”.

Subsec. (e). Pub. L. 111-22, §1004(a)(2)(C), added subsec. (e).

2001—Subsec. (c). Pub. L. 107-95 amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows: “The Council shall meet at the call of its Chairperson or a majority of its members. The first meeting of the Council shall be held not later than 30 days after July 22, 1987.”

2000—Subsec. (b). Pub. L. 106-377 inserted at end “The positions of Chairperson and Vice Chairperson shall rotate among its members on an annual basis.”

1993—Subsec. (a)(12). Pub. L. 103-82 added par. (12) and struck out former par. (12) which read as follows: “The Director of the ACTION Agency, or the designee of the Director.”

1990—Subsec. (a)(11) to (15). Pub. L. 101-645 added par. (11), redesignated former pars. (11) to (14) as (12) to (15), respectively, and struck out former par. (15) which read as follows: “The Administrator of Veterans’ Affairs, or the designee of the Administrator.”

## CHANGE OF NAME

“Administrator of the Federal Emergency Management Agency” and “Administrator” substituted for “Director of the Federal Emergency Management Agency” and “Director”, respectively, in subsec. (a)(13) on authority of section 612(c) of Pub. L. 109-295, set out

<sup>1</sup> So in original. No par. (21) has been enacted.

as a note under section 313 of Title 6, Domestic Security. Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109-295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109-295, set out as a note under section 313 of Title 6.

#### EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-22 effective on, and applicable beginning on, May 20, 2009, see section 1004(b) of Pub. L. 111-22, set out as a note under section 11311 of this title.

#### EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-82 effective Apr. 4, 1994, see section 406(b) of Pub. L. 103-82, set out as a note under section 8332 of Title 5, Government Organization and Employees.

#### TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

### § 11313. Functions

#### (a) Duties

The Council shall—

(1) not later than 12 months after May 20, 2009, develop, make available for public comment, and submit to the President and to Congress a National Strategic Plan to End Homelessness, and shall update such plan annually;

(2) review all Federal activities and programs to assist homeless individuals;

(3) take such actions as may be necessary to reduce duplication among programs and activities by Federal agencies to assist homeless individuals;

(4) monitor, evaluate, and recommend improvements in programs and activities to assist homeless individuals conducted by Federal agencies, State and local governments, and private voluntary organizations;

(5) provide professional and technical assistance (by not less than 5, but in no case more than 10, regional coordinators employed by the Council, each having responsibility for interaction and coordination of the activities of the Council within the 10 standard Federal regions) to States, local governments, and other public and private nonprofit organizations, in order to enable such governments and organizations to—

(A) interpret regulations and assist in the application process for Federal assistance, including grants;

(B) provide assistance on the ways in which Federal programs, other than those

authorized under this chapter, may best be coordinated to complement the objectives of this chapter;

(C) develop recommendations and program ideas based on regional specific issues in serving the homeless population; and

(D) establish a schedule for biennial regional workshops to be held by the Council in each of the 10 standard Federal regions to further carry out and provide the assistance described in subparagraphs (A), (B), and (C) and other appropriate assistance as necessary, of which—

(i) not less than 5 such workshops shall be held by September 30, 1989; and

(ii) at least 1 such workshop shall be held in each of the 10 Federal regions every 2 years, beginning on September 30, 1988;

(6) encourage the creation of State Inter-agency Councils on Homelessness and the formulation of jurisdictional 10-year plans to end homelessness at State, city, and county levels;

(7) annually obtain from Federal agencies their identification of consumer-oriented entitlement and other resources for which persons experiencing homelessness may be eligible and the agencies' identification of improvements to ensure access; develop mechanisms to ensure access by persons experiencing homelessness to all Federal, State, and local programs for which the persons are eligible, and to verify collaboration among entities within a community that receive Federal funding under programs targeted for persons experiencing homelessness, and other programs for which persons experiencing homelessness are eligible, including mainstream programs identified by the Government Accountability Office in the reports entitled "Homelessness: Coordination and Evaluation of Programs Are Essential", issued February 26, 1999, and "Homelessness: Barriers to Using Mainstream Programs", issued July 6, 2000;

(8) conduct research and evaluation related to its functions as defined in this section;

(9)<sup>1</sup> develop joint Federal agency and other initiatives to fulfill the goals of the agency;

(9)<sup>1</sup> collect and disseminate information relating to homeless individuals;

(10) prepare the annual reports required in subsection (c)(2) of this section;

(11) prepare and distribute to States (including State contact persons), local governments, and other public and private nonprofit organizations, a bimonthly bulletin that describes the Federal resources available to them to assist the homeless, including current information regarding application deadlines and appropriate persons to contact in each Federal agency providing the resources;

(12) develop constructive alternatives to criminalizing homelessness and laws and policies that prohibit sleeping, feeding, sitting, resting, or lying in public spaces when there are no suitable alternatives, result in the destruction of a homeless person's property without due process, or are selectively enforced against homeless persons; and

<sup>1</sup> So in original. Two pars. (9) have been enacted.



(13) not later than the expiration of the 6-month period beginning upon completion of the study requested in a letter to the Acting Comptroller General from the Chair and Ranking Member of the House Financial Services Committee and several other members regarding various definitions of homelessness in Federal statutes, convene a meeting of representatives of all Federal agencies and committees of the House of Representatives and the Senate having jurisdiction over any Federal program to assist homeless individuals or families, local and State governments, academic researchers who specialize in homelessness, nonprofit housing and service providers that receive funding under any Federal program to assist homeless individuals or families, organizations advocating on behalf of such nonprofit providers and homeless persons receiving housing or services under any such Federal program, and homeless persons receiving housing or services under any such Federal program, at which meeting such representatives shall discuss all issues relevant to whether the definitions of “homeless” under paragraphs (1) through (4) of section 11302(a) of this title, as amended by section 1003 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, should be modified by the Congress, including whether there is a compelling need for a uniform definition of homelessness under Federal law, the extent to which the differences in such definitions create barriers for individuals to accessing services and to collaboration between agencies, and the relative availability, and barriers to access by persons defined as homeless, of mainstream programs identified by the Government Accountability Office in the two reports identified in paragraph (7) of this subsection; and shall submit transcripts of such meeting, and any majority and dissenting recommendations from such meetings, to each committee of the House of Representatives and the Senate having jurisdiction over any Federal program to assist homeless individuals or families not later than the expiration of the 60-day period beginning upon conclusion of such meeting.

**(b) Authority**

In carrying out subsection (a) of this section, the Council may—

(1) arrange national, regional, State, and local conferences for the purpose of developing and coordinating effective programs and activities to assist homeless individuals and pay for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made;<sup>2</sup>

(2) publish a newsletter concerning Federal, State, and local programs that are effectively meeting the needs of homeless individuals.

**(c) Reports**

(1) Within 90 days after July 22, 1987, and annually thereafter, the head of each Federal agency that is a member of the Council shall prepare and transmit to the Congress and the Council a report that describes—

(A) each program to assist homeless individuals administered by such agency and the number of homeless individuals served by such program;

(B) impediments, including any statutory and regulatory restrictions, to the use by homeless individuals of each such program and to obtaining services or benefits under each such program; and

(C) efforts made by such agency to increase the opportunities for homeless individuals to obtain shelter, food, and supportive services.

(2) The Council shall prepare and transmit to the President and the Congress an annual report that—

(A) assesses the nature and extent of the problems relating to homelessness and the needs of homeless individuals;

(B) provides a comprehensive and detailed description of the activities and accomplishments of the Federal Government in resolving the problems and meeting the needs assessed pursuant to subparagraph (A);

(C) describes the accomplishments and activities of the Council, in working with Federal, State, and local agencies and public and private organizations in order to provide assistance to homeless individuals;

(D) assesses the level of Federal assistance necessary to adequately resolve the problems and meet the needs assessed pursuant to subparagraph (A); and

(E) specifies any recommendations of the Council for appropriate and necessary legislative and administrative actions to resolve such problems and meet such needs.

**(d) Notification of other Federal agencies**

If, in monitoring and evaluating programs and activities to assist homeless individuals conducted by other Federal agencies, the Council determines that any significant problem, abuse, or deficiency exists in the administration of the program or activity of any Federal agency, the Council shall submit a notice of the determination of the Council to the Inspector General of the Federal agency (or the head of the Federal agency, in the case of a Federal agency that has no Inspector General).

**(e) Program timetables**

Not later than 90 days after November 7, 1988, the head of each Federal agency that is a member of the Council and responsible for administering a program under this chapter shall provide to the Council a timetable regarding program funding availability and application deadlines. The Council shall furnish such information to each State (including the State contact person).

(Pub. L. 100-77, title II, §203, July 22, 1987, 101 Stat. 487; Pub. L. 100-628, title II, §§201-203, Nov. 7, 1988, 102 Stat. 3227, 3228; Pub. L. 111-22, div. B, §1004(a)(3), (4), May 20, 2009, 123 Stat. 1666, 1668.)

REFERENCES IN TEXT

This chapter, referred to in subssecs. (a)(5)(B) and (e), was in the original “this Act”, meaning Pub. L. 100-77, July 22, 1987, 101 Stat. 482, known as the McKinney-Vento Homeless Assistance Act. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of this title and Tables.

<sup>2</sup> So in original. Probably should be followed by “and”.

Section 1003 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, referred to in subsec. (a)(13), is section 1003 of Pub. L. 111-22.

#### AMENDMENTS

2009—Subsec. (a)(1) to (4). Pub. L. 111-22, § 1004(a)(3)(A), (B), added par. (1) and redesignated former pars. (1) to (3) as (2) to (4), respectively. Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 111-22, § 1004(a)(3)(A), (C), redesignated par. (4) as (5) and substituted “not less than 5, but in no case more than 10” for “at least 2, but in no case more than 5”. Former par. (5) redesignated (9).

Subsec. (a)(6) to (13). Pub. L. 111-22, § 1004(a)(3)(A), (D)–(G), added pars. (6) to (8), par. (9) relating to joint Federal agency and other initiatives to fulfill the goals of the agency, and pars. (12) and (13), redesignated former par. (5) as par. (9) relating to collection and dissemination of information, and redesignated former pars. (6) and (7) as (10) and (11), respectively.

Subsec. (b)(1). Pub. L. 111-22, § 1004(a)(4), substituted “national” for “Federal” and “and pay for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made;” for “; and”.

1988—Subsec. (a)(4). Pub. L. 100-628, § 202(1), substituted “(by at least 2, but in no case more than 5, regional coordinators employed by the Council, each having responsibility for interaction and coordination of the activities of the Council within the 10 standard Federal regions)” for “, through personnel employed by the Council in each of the 10 standard Federal regions,” in introductory provisions.

Subsec. (a)(4)(A) to (D). Pub. L. 100-628, § 202(2), added subpars. (A) to (D) and struck out former subpars. (A) and (B) which read as follows:

“(A) effectively coordinate and maximize resources of existing programs and activities to assist homeless individuals; and

“(B) develop new and innovative programs and activities to assist homeless individuals;”.

Subsec. (a)(7). Pub. L. 100-628, § 201, added par. (7).

Subsec. (e). Pub. L. 100-628, § 203, added subsec. (e).

#### EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-22 effective on, and applicable beginning on, May 20, 2009, see section 1004(b) of Pub. L. 111-22, set out as a note under section 11311 of this title.

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (c)(2) of this section relating to transmittal to Congress of annual report, see section 3003 of Pub. L. 104-66, set out as a note under section 1113 of Title 31, Money and Finance, and the 5th item on page 175 of House Document No. 103-7.

#### PERSONNEL FROM FEDERAL DEPARTMENTS AND AGENCIES

Pub. L. 102-389, title III, Oct. 6, 1992, 106 Stat. 1608, provided in part: “That the Council shall carry out its duties in the 10 standard Federal regions under section 203(a)(4) of such Act [now 42 U.S.C. 11313(a)(5)] only through detail, on a non-reimbursable basis, of employees of the departments and agencies represented on the Council pursuant to section 202(a) of such Act [42 U.S.C. 11312(a)].”

Similar provisions were contained in the following prior appropriations acts:

Pub. L. 102-139, title III, Oct. 28, 1991, 105 Stat. 769.

Pub. L. 101-507, title III, Nov. 5, 1990, 104 Stat. 1377.

Pub. L. 101-144, title III, Nov. 9, 1989, 103 Stat. 861.

Pub. L. 100-404, title I, Aug. 19, 1988, 102 Stat. 1017.

#### NONIMPLEMENTATION OF SUBSECTION (a)(5)

Pub. L. 100-202, § 101(f) [title I], Dec. 22, 1987, 101 Stat. 1329-187, 1329-191, provided: “That the provision in section 203(a)(4) [now 203(a)(5)] of such Act [Pub. L. 100-77,

42 U.S.C. 11313(a)(5)] that relates to employment of personnel in the regions shall not be implemented.”

#### EXECUTIVE ORDER NO. 12848

Ex. Ord. No. 12848, May 19, 1993, 58 F.R. 29517, required Federal member agencies acting through the Inter-agency Council on the Homeless to develop a single coordinated Federal plan for breaking the cycle of existing homelessness and for preventing future homelessness and to submit the plan to the President no later than 9 months after May 19, 1993.

#### § 11314. Director and staff

##### (a) Director

The Council shall appoint an Executive Director, who shall be compensated at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5. The Council shall appoint an Executive Director at the first meeting of the Council held under section 11312(c) of this title.

##### (b) Additional personnel

With the approval of the Council, the Executive Director of the Council may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Council.

##### (c) Details from other agencies

Upon request of the Council, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Council to assist the Council in carrying out its duties under this subchapter. Upon request of the Council, the Secretary of Health and Human Services shall detail, on a reimbursable basis, any of the personnel of the Department of Health and Human Services who have served the Federal Task Force on the Homeless of the Department to assist the Council in carrying out its duties under this subchapter.

##### (d) Administrative support

The Secretary of Housing and Urban Development shall provide the Council with such administrative and support services as are necessary to ensure that the Council carries out its functions under this subchapter in an efficient and expeditious manner.

##### (e) Experts and consultants

With the approval of the Council, the Executive Director of the Council may procure temporary and intermittent services under section 3109(b) of title 5.

(Pub. L. 100-77, title II, § 204, July 22, 1987, 101 Stat. 488.)

#### § 11315. Powers

##### (a) Meetings

For the purpose of carrying out this subchapter, the Council may hold such meetings, and sit and act at such times and places, as the Council considers appropriate.

##### (b) Delegation

Any member or employee of the Council may, if authorized by the Council, take any action that the Council is authorized to take in this subchapter.

##### (c) Information

The Council may secure directly from any Federal agency such information as may be nec-

essary to enable the Council to carry out this subchapter. Upon request of the Chairperson of the Council, the head of such agency shall furnish such information to the Council.

**(d) Donations**

The Council may accept, use, and dispose of gifts or donations of services or property, both real and personal, public and private, without fiscal year limitation, for the purpose of aiding or facilitating the work of the Council.

**(e) Mails**

The Council may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(Pub. L. 100-77, title II, §205, July 22, 1987, 101 Stat. 488; Pub. L. 111-22, div. B, §1004(a)(5), May 20, 2009, 123 Stat. 1668.)

AMENDMENTS

2009—Subsec. (d). Pub. L. 111-22 substituted “property, both real and personal, public and private, without fiscal year limitation, for the purpose of aiding or facilitating the work of the Council.” for “property.”

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-22 effective on, and applicable beginning on, May 20, 2009, see section 1004(b) of Pub. L. 111-22, set out as a note under section 11311 of this title.

**§ 11316. Transfer of functions**

**(a) Transfers from HHS Task Force**

The Council shall be the successor to the Federal Task Force on the Homeless of the Department of Health and Human Services. The property, records, and undistributed program funds of the Task Force shall be transferred to the Council.

**(b) Termination of HHS Task Force**

The Secretary of Health and Human Services shall terminate the Federal Task Force on the Homeless of the Department of Health and Human Services as soon as practicable following the first meeting of the Council.

(Pub. L. 100-77, title II, §206, July 22, 1987, 101 Stat. 489.)

**§ 11317. Definitions**

For purposes of this subchapter:

(1) The term “Council” means the United States Interagency Council on Homelessness established in section 11311 of this title.

(2) The term “Federal agency” has the meaning given the term “agency” in section 551(1) of title 5.

(Pub. L. 100-77, title II, §207, July 22, 1987, 101 Stat. 489; Pub. L. 108-199, div. G, title II, §216(4), Jan. 23, 2004, 118 Stat. 394.)

AMENDMENTS

2004—Par. (1). Pub. L. 108-199 substituted “United States Interagency Council on Homelessness” for “Interagency Council on the Homeless”.

**§ 11318. Authorization of appropriations**

There are authorized to be appropriated to carry out this subchapter \$3,000,000 for fiscal year 2010 and such sums as may be necessary for

fiscal years 2011. Any amounts appropriated to carry out this subchapter shall remain available until expended.

(Pub. L. 100-77, title II, §208, as added Pub. L. 111-22, div. B, §1004(a)(6), May 20, 2009, 123 Stat. 1668.)

PRIOR PROVISIONS

A prior section 11318, Pub. L. 100-77, title II, §208, July 22, 1987, 101 Stat. 489; Pub. L. 100-628, title II, §204, Nov. 7, 1988, 102 Stat. 3228; Pub. L. 101-645, title I, §102, Nov. 29, 1990, 104 Stat. 4674; Pub. L. 102-550, title XIV, §1421, Oct. 28, 1992, 106 Stat. 4043, which authorized appropriations for fiscal years 1993 and 1994, was repealed by Pub. L. 111-22, div. B, §1004(a)(6), (b), May 20, 2009, 123 Stat. 1668, effective on, and applicable beginning on, May 20, 2009.

EFFECTIVE DATE

Section effective on, and applicable beginning on, May 20, 2009, see section 1004(b) of Pub. L. 111-22, set out as an Effective Date of 2009 Amendment note under section 11311 of this title.

**§ 11319. Termination**

The Council shall cease to exist, and the requirements of this subchapter shall terminate, on October 1, 2010.

(Pub. L. 100-77, title II, §209, July 22, 1987, 101 Stat. 489; Pub. L. 100-628, title II, §205, Nov. 7, 1988, 102 Stat. 3228; Pub. L. 101-402, §2, Oct. 1, 1990, 104 Stat. 866; Pub. L. 101-645, title I, §103, Nov. 29, 1990, 104 Stat. 4675; Pub. L. 102-550, title XIV, §1422, Oct. 28, 1992, 106 Stat. 4043; Pub. L. 106-377, §1(a)(1) [title II, §231(2)], Oct. 27, 2000, 114 Stat. 1441, 1441A-31; Pub. L. 109-115, div. A, title VI, Nov. 30, 2005, 119 Stat. 2490; Pub. L. 110-161, div. K, title III, Dec. 26, 2007, 121 Stat. 2443; Pub. L. 111-8, div. I, title III, Mar. 11, 2009, 123 Stat. 985.)

AMENDMENTS

2009—Pub. L. 111-8 substituted “2010” for “2008”.

2007—Pub. L. 110-161, which directed the amendment of this section by striking “2007” and inserting “2008”, was executed by substituting “2008” for “2006” to reflect the probable intent of Congress.

2005—Pub. L. 109-115 substituted “2006” for “2005”.

2000—Pub. L. 106-377 substituted “2005” for “1994”.

1992—Pub. L. 102-550 substituted “October 1, 1994” for “October 1, 1992”.

1990—Pub. L. 101-645 substituted “October 1, 1992” for “October 31, 1990”.

Pub. L. 101-402 substituted “October 31, 1990” for “October 1, 1990”.

1988—Pub. L. 100-628 substituted “on October 1, 1990” for “upon the expiration of the 3-year period beginning on July 22, 1987”.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-402 deemed to have taken effect as if enacted Sept. 29, 1990, see section 1(a) of Pub. L. 101-494, set out as an Effective Date of Temporary Extension of Emergency Low Income Housing Preservation Act of 1987 and Correction of Any Repeal note under section 1715f of Title 12, Banks and Banking.

TEMPORARY EXTENSION OF PROVISIONS

Pub. L. 109-289, div. B, title II, §21042, as added by Pub. L. 110-5, §2, Feb. 15, 2007, 121 Stat. 53, provided that: “The provisions of title II of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11311 et seq.) shall continue in effect, notwithstanding section 209 of such Act [this section], through the earlier of: (1) the date

specified in section 106 of this division [Sept. 30, 2007]; or (2) the date of the enactment into law of an authorization Act relating to the McKinney-Vento Homeless Assistance Act.”

#### TEMPORARY EXTENSION OF COUNCIL

Pub. L. 101-494, § 3, Oct. 31, 1990, 104 Stat. 1185, as amended by Pub. L. 106-400, § 2, Oct. 30, 2000, 114 Stat. 1675, provided that:

“(a) EXTENSION.—If upon enactment of this Act [Oct. 31, 1990], section 209 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11319) provides for the termination of the Interagency Council on the Homeless on October 31, 1990, then notwithstanding such section, the Interagency Council on the Homeless shall cease to exist, and the requirements of title II of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11311 et seq.] shall terminate, on November 30, 1990.

“(b) LIMITATIONS.—If upon enactment of this Act [Oct. 31, 1990] such section 209 provides for termination of the Council (referred to in subsection (a)) on a date other than October 31, 1990, this section shall not apply. This section shall not apply with respect to any amendment to section 209 of the McKinney-Vento Homeless Assistance Act made after the date of the enactment of this Act.”

### § 11320. Encouragement of State involvement

#### (a) State contact persons

Each State shall designate an individual to serve as a State contact person for the purpose of receiving and disseminating information and communications received from the Council, including the bimonthly bulletin described in section 11313(a)(7)<sup>1</sup> of this title.

#### (b) State interagency councils and lead agencies

Each State is encouraged to establish a State interagency council on the homeless or designate a lead agency for the State for the purpose of assuming primary responsibility for coordinating and interacting with the Council and State and local agencies as necessary.

(Pub. L. 100-77, title II, § 210, as added Pub. L. 100-628, title II, § 206(a), Nov. 7, 1988, 102 Stat. 3229.)

#### REFERENCES IN TEXT

Par. (7) of section 11313(a) of this title, referred to in subsec. (a), was redesignated par. (11) of section 11313(a) by Pub. L. 111-22, div. B, § 1004(a)(3)(A), May 20, 2009, 123 Stat. 1667.

### SUBCHAPTER III—FEDERAL EMERGENCY MANAGEMENT FOOD AND SHELTER PROGRAM

#### PART A—ADMINISTRATIVE PROVISIONS

### § 11331. Emergency Food and Shelter Program National Board

#### (a) Establishment

There is established to carry out the provisions of this subchapter the Emergency Food and Shelter Program National Board. The Administrator of the Federal Emergency Management Agency shall constitute the National Board in accordance with subsection (b) of this section in administering the program under this subchapter.

#### (b) Members

The National Board shall consist of the Director and 6 members appointed by the Director.

The initial members of the National Board shall be appointed by the Director not later than 30 days after July 22, 1987. Each such member shall be appointed from among individuals nominated by 1 of the following organizations:

- (1) The United Way of America.
- (2) The Salvation Army.
- (3) The National Council of Churches of Christ in the U.S.A.
- (4) Catholic Charities U.S.A.
- (5) The Council of Jewish Federations, Inc.
- (6) The American Red Cross.

#### (c) Chairperson

The Director shall be the Chairperson of the National Board.

#### (d) Other activities

Except as otherwise specifically provided in this subchapter, the National Board shall establish its own procedures and policies for the conduct of its affairs.

#### (e) Transfers from previous national board

Upon the appointment of members to the National Board under subsection (b) of this section—

- (1) the national board constituted under the emergency food and shelter program established pursuant to section 101(g) of Public Law 99-500 or Public Law 99-591 shall cease to exist; and
- (2) the personnel, property, records, and undistributed program funds of such national board shall be transferred to the National Board.

(Pub. L. 100-77, title III, § 301, July 22, 1987, 101 Stat. 489; Pub. L. 109-295, title VI, § 612(c), Oct. 4, 2006, 120 Stat. 1410.)

#### REFERENCES IN TEXT

The emergency food and shelter program established pursuant to section 101(g) of Public Law 99-500 or Public Law 99-591, referred to in subsec. (e)(1), means the emergency food and shelter program authorized by title II of H.R. 5313 [Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1987], as incorporated by reference by section 101(g) of Pub. L. 99-500, Oct. 18, 1986, 100 Stat. 1783-242, and Pub. L. 99-591, Oct. 30, 1986, 100 Stat. 3341-242, which is not classified to the Code.

#### CHANGE OF NAME

“Administrator of the Federal Emergency Management Agency” substituted for “Director of the Federal Emergency Management Agency” in subsec. (a) on authority of section 612(c) of Pub. L. 109-295, set out as a note under section 313 of Title 6, Domestic Security. Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109-295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109-295, set out as a note under section 313 of Title 6.

#### TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agen-

<sup>1</sup> See References in Text note below.

cy, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

### § 11332. Local boards

#### (a) Establishment

Each locality designated by the National Board shall constitute a local board for the purpose of determining how program funds allotted to the locality will be distributed. The local board shall consist, to the extent practicable, of representatives of the same organizations as the National Board, except that the mayor or other appropriate heads of government will replace the Federal members, and except that each local board administering program funds for a locality within which is located a reservation (as such term is defined in section 1452(d) of title 25,<sup>1</sup> or a portion thereof, shall include a board member who is a member of an Indian tribe (as such term is defined in section 5302(a)(17) of this title.<sup>1</sup> The chairperson of the local board shall be elected by a majority of the members of the local board. Local boards are encouraged to expand participation of other private nonprofit organizations on the local board.

#### (b) Responsibilities

Each local board shall—

- (1) determine which private nonprofit organizations or public organizations of the local government in the individual locality shall receive grants to act as service providers;
- (2) monitor recipient service providers for program compliance;
- (3) reallocate funds among service providers;
- (4) ensure proper reporting; and
- (5) coordinate with other Federal, State, and local government assistance programs available in the locality.

(Pub. L. 100-77, title III, § 302, July 22, 1987, 101 Stat. 490; Pub. L. 101-645, title II, § 202(a), Nov. 29, 1990, 104 Stat. 4675.)

#### AMENDMENTS

1990—Subsec. (a). Pub. L. 101-645 inserted before period at end of second sentence “, and except that each local board administering program funds for a locality within which is located a reservation (as such term is defined in section 1452(d) of title 25, or a portion thereof, shall include a board member who is a member of an Indian tribe (as such term is defined in section 5302(a)(17) of this title”.

#### IMPLEMENTATION OF 1990 AMENDMENT

Section 202(b) of Pub. L. 101-645 provided that: “Each local board under the Emergency Food and Shelter Program whose membership shall include a member of an Indian tribe by reason of the amendment made by subsection (a) [amending this section] shall comply with the requirement made by such amendment not later than the expiration of the 30-day period beginning on the date of the enactment of this Act [Nov. 29, 1990].”

<sup>1</sup> So in original. A closing parenthesis probably should precede the punctuation.

### § 11333. Role of Federal Emergency Management Agency

#### (a) In general

The Director shall provide the National Board with administrative support and act as Federal liaison to the National Board.

#### (b) Specific support activities

The Director shall—

- (1) make available to the National Board, upon request, the services of the legal counsel and Inspector General of the Federal Emergency Management Agency;
- (2) assign clerical personnel to the National Board on a temporary basis; and
- (3) conduct audits of the National Board annually and at such other times as may be appropriate.

(Pub. L. 100-77, title III, § 303, July 22, 1987, 101 Stat. 490.)

#### TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

### § 11334. Records and audit of National Board and recipients of assistance

#### (a) Annual independent audit of National Board

(1) The accounts of the National Board shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at the place or places where the accounts of the National Board are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the National Board and necessary to facilitate the audits shall be made available to the person or persons conducting the audits, and full facilities for verifying transactions with any assets held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(2) The report of each such independent audit shall be included in the annual report required in section 11335 of this title. Such report shall set forth the scope of the audit and include such statements as are necessary to present fairly the assets and liabilities of the National Board, surplus or deficit, with an analysis of the changes during the year, supplemented in reasonable detail by a statement of the income and expenses of the National Board during the year,

and a statement of the application of funds, together with the opinion of the independent auditor of such statements.

**(b) Access to records of recipients of assistance**

(1) Each recipient of assistance under this subchapter shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(2) The National Board, or any of its duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this subchapter.

**(c) Authority of Comptroller General**

The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall also have access to any books, documents, papers, and records of the National Board and recipients for such purpose.

(Pub. L. 100-77, title III, §304, July 22, 1987, 101 Stat. 491.)

**§ 11335. Annual report**

The National Board shall transmit to the Congress an annual report covering each year in which it conducts activities with funds made available under this subchapter.

(Pub. L. 100-77, title III, §305, July 22, 1987, 101 Stat. 491.)

**TERMINATION OF REPORTING REQUIREMENTS**

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103-7 (in which a report required under this section is listed in the 4th item on page 169), see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

**PART B—EMERGENCY FOOD AND SHELTER GRANTS**

**§ 11341. Grants by Director**

Not later than 30 days following the date on which appropriations become available to carry out this part, the Director shall award a grant for the full amount that the Congress appropriates for the program under this part to the National Board for the purpose of providing emergency food and shelter to needy individuals through private nonprofit organizations and local governments in accordance with section 11343 of this title.

(Pub. L. 100-77, title III, §311, July 22, 1987, 101 Stat. 492.)

**TRANSFER OF FUNCTIONS**

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of

the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

**§ 11342. Retention of interest earned**

Interest accrued on the balance of any grant to the National Board shall be available to the National Board for reallocation, and total administrative costs shall be determined based on total amount of funds available, including interest and any private contributions that are made to the National Board.

(Pub. L. 100-77, title III, §312, July 22, 1987, 101 Stat. 492.)

**§ 11343. Purposes of grants**

**(a) Eligible activities**

Grants to the National Board may be used—

(1) to supplement and expand ongoing efforts to provide shelter, food, and supportive services for homeless individuals with sensitivity to the transition from temporary shelter to permanent homes, and attention to the special needs of homeless individuals with mental and physical disabilities and illnesses, and to facilitate access for homeless individuals to other sources of services and benefits;

(2) to strengthen efforts to create more effective and innovative local programs by providing funding for them; and

(3) to conduct minimum rehabilitation of existing mass shelter or mass feeding facilities, but only to the extent necessary to make facilities safe, sanitary, and bring them into compliance with local building codes.

**(b) Limitations on activities**

(1) The National Board may only provide funding provided under this part for—

(A) programs undertaken by private nonprofit organizations and local governments; and

(B) programs that are consistent with the purposes of this subchapter.

(2) The National Board may not carry out programs directly.

(Pub. L. 100-77, title III, §313, July 22, 1987, 101 Stat. 492.)

**§ 11344. Limitation on certain costs**

Not more than 5 percent of the total amount appropriated for the emergency food and shelter program for each fiscal year may be expended for the costs of administration.

(Pub. L. 100-77, title III, §314, July 22, 1987, 101 Stat. 492.)

**§ 11345. Disbursement of funds**

Any amount made available by appropriation Acts under this subchapter shall be disbursed by

the National Board before the expiration of the 3-month period beginning on the date on which such amount becomes available.

(Pub. L. 100-77, title III, §315, July 22, 1987, 101 Stat. 492.)

#### § 11346. Program guidelines

##### (a) Guidelines

The National Board shall establish written guidelines for carrying out the program under this part, including—

(1) methods for identifying localities with the highest need for emergency food and shelter assistance;

(2) methods for determining the amount and distribution to such localities;

(3) eligible program costs, including maximum flexibility in meeting currently existing needs;

(4) guidelines specifying the responsibilities and reporting requirements of the National Board, its recipients, and service providers;

(5) guidelines requiring each private nonprofit organization and local government carrying out a local emergency food and shelter program with amounts provided under this part, to the maximum extent practicable, to involve homeless individuals and families, through employment, volunteer services, or otherwise, in providing emergency food and shelter and in otherwise carrying out the local program; and

(6) guidelines requiring each private nonprofit organization and local government carrying out a local emergency food and shelter program with amounts provided under this part to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policy making entity of the organization or governmental agency to the extent that such entity considers and makes policies and decisions regarding the local program of the organization or locality; except that such guidelines may grant waivers to applicants unable to meet such requirement if the organization or government agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

##### (b) Publication

Guidelines established under subsection (a) of this section shall be published annually, and whenever modified, in the Federal Register. The National Board shall not be subject to the procedural rulemaking requirements of subchapter II of chapter 5 of title 5.

(Pub. L. 100-77, title III, §316, July 22, 1987, 101 Stat. 493; Pub. L. 102-550, title XIV, §1432, Oct. 28, 1992, 106 Stat. 4043.)

#### AMENDMENTS

1992—Subsec. (a)(5), (6). Pub. L. 102-550 added pars. (5) and (6).

#### PART C—GENERAL PROVISIONS

#### § 11351. Definitions

For purposes of this subchapter:

(1) The term “Director” means the Administrator of the Federal Emergency Management Agency.

(2) The term “emergency shelter” means a facility all or a part of which is used or designed to be used to provide temporary housing.

(3) The term “local government” means a unit of general purpose local government.

(4) The term “locality” means the geographical area within the jurisdiction of a local government.

(5) The term “National Board” means the Emergency Food and Shelter Program National Board.

(6) The term “private nonprofit organization” means an organization—

(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

(B) that has a voluntary board;

(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Director; and

(D) that practices nondiscrimination in the provision of assistance.

(7) The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(Pub. L. 100-77, title III, §321, July 22, 1987, 101 Stat. 493; Pub. L. 109-295, title VI, §612(c), Oct. 4, 2006, 120 Stat. 1410.)

#### CHANGE OF NAME

“Administrator of the Federal Emergency Management Agency” substituted for “Director of the Federal Emergency Management Agency” in par. (1) on authority of section 612(c) of Pub. L. 109-295, set out as a note under section 313 of Title 6, Domestic Security. Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109-295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109-295, set out as a note under section 313 of Title 6.

#### TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

#### TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

**§ 11352. Authorization of appropriations**

There are authorized to be appropriated to carry out this subchapter \$180,000,000 for fiscal year 1993 and \$187,560,000 for fiscal year 1994.

(Pub. L. 100-77, title III, § 322, July 22, 1987, 101 Stat. 493; Pub. L. 100-628, title III, § 302, Nov. 7, 1988, 102 Stat. 3229; Pub. L. 101-645, title II, § 201, Nov. 29, 1990, 104 Stat. 4675; Pub. L. 102-550, title XIV, § 1431, Oct. 28, 1992, 106 Stat. 4043.)

**AMENDMENTS**

1992—Pub. L. 102-550 amended section generally. Prior to amendment, section read as follows: “There are authorized to be appropriated to carry out this subchapter \$150,000,000 for each of fiscal years 1991 and 1992.”

1990—Pub. L. 101-645 amended section generally. Prior to amendment, section read as follows: “There are authorized to be appropriated to carry out this subchapter \$129,000,000 for fiscal year 1989 and \$134,000,000 for fiscal year 1990.”

1988—Pub. L. 100-628 amended section generally, substituting “\$129,000,000 for fiscal year 1989 and \$134,000,000 for fiscal year 1990” for “\$15,000,000 for fiscal year 1987 and \$124,000,000 for fiscal year 1988”.

**SUBCHAPTER IV—HOUSING ASSISTANCE****CODIFICATION**

Pub. L. 101-625, title VIII, §§ 821, 823, Nov. 28, 1990, 104 Stat. 4331, 4355, which provided for the amendment of this subchapter generally and provided for implementation, transition, and a prospective effective date for the amendment, was repealed by Pub. L. 102-550, title XIV, § 1410, Oct. 28, 1992, 106 Stat. 4038, which provided that: “The Cranston-Gonzalez National Affordable Housing Act is amended by striking sections 821 and 823 (42 U.S.C. 11361 note). The amendment made by such section 821 of such Act shall not take effect.”

**PART A—COMPREHENSIVE HOMELESS ASSISTANCE PLAN****AMENDMENT OF PART**

*Pub. L. 111-22, div. B, title I, § 1101(1), title V, § 1503, May 20, 2009, 123 Stat. 1669, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, the part heading is amended by substituting “General Provisions” for “Comprehensive Homeless Assistance Plan”.*

**§ 11360. Definitions**

For purposes of this subchapter:

**(1) At risk of homelessness**

The term “at risk of homelessness” means, with respect to an individual or family, that the individual or family—

(A) has income below 30 percent of median income for the geographic area;

(B) has insufficient resources immediately available to attain housing stability; and

(C)(i) has moved frequently because of economic reasons;

(ii) is living in the home of another because of economic hardship;

(iii) has been notified that their right to occupy their current housing or living situation will be terminated;

(iv) lives in a hotel or motel;

(v) lives in severely overcrowded housing;

(vi) is exiting an institution; or

(vii) otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness.

Such term includes all families with children and youth defined as homeless under other Federal statutes.

**(2) Chronically homeless****(A) In general**

The term “chronically homeless” means, with respect to an individual or family, that the individual or family—

(i) is homeless and lives or resides in a place not meant for human habitation, a safe haven, or in an emergency shelter;

(ii) has been homeless and living or residing in a place not meant for human habitation, a safe haven, or in an emergency shelter continuously for at least 1 year or on at least 4 separate occasions in the last 3 years; and

(iii) has an adult head of household (or a minor head of household if no adult is present in the household) with a diagnosable substance use disorder, serious mental illness, developmental disability (as defined in section 15002 of this title), post traumatic stress disorder, cognitive impairments resulting from a brain injury, or chronic physical illness or disability, including the co-occurrence of 2 or more of those conditions.

**(B) Rule of construction**

A person who currently lives or resides in an institutional care facility, including a jail, substance abuse or mental health treatment facility, hospital or other similar facility, and has resided there for fewer than 90 days shall be considered chronically homeless if such person met all of the requirements described in subparagraph (A) prior to entering that facility.

**(3) Collaborative applicant**

The term “collaborative applicant” means an entity that—

(A) carries out the duties specified in section 11360a of this title;

(B) serves as the applicant for project sponsors who jointly submit a single application for a grant under part C in accordance with a collaborative process; and

(C) if the entity is a legal entity and is awarded such grant, receives such grant directly from the Secretary.

**(4) Collaborative application**

The term “collaborative application” means an application for a grant under part C that—

(A) satisfies section 11382 of this title; and

(B) is submitted to the Secretary by a collaborative applicant.

**(5) Consolidated Plan**

The term “Consolidated Plan” means a comprehensive housing affordability strategy and community development plan required in part 91 of title 24, Code of Federal Regulations.



**(6) Eligible entity**

The term “eligible entity” means, with respect to a part, a public entity, a private entity, or an entity that is a combination of public and private entities, that is eligible to directly receive grant amounts under such part.

**(7) Families with children and youth defined as homeless under other Federal statutes**

The term “families with children and youth defined as homeless under other Federal statutes” means any children or youth that are defined as “homeless” under any Federal statute other than this part, but are not defined as homeless under section 11302 of this title, and shall also include the parent, parents, or guardian of such children or youth under part B of subchapter VI this<sup>1</sup> chapter (42 U.S.C. 11431 et seq.).

**(8) Geographic area**

The term “geographic area” means a State, metropolitan city, urban county, town, village, or other nonentitlement area, or a combination or consortia of such, in the United States, as described in section 5306 of this title.

**(9) Homeless individual with a disability****(A) In general**

The term “homeless individual with a disability” means an individual who is homeless, as defined in section 11302 of this title, and has a disability that—

(i) (I) is expected to be long-continuing or of indefinite duration;

(II) substantially impedes the individual’s ability to live independently;

(III) could be improved by the provision of more suitable housing conditions; and

(IV) is a physical, mental, or emotional impairment, including an impairment caused by alcohol or drug abuse, post traumatic stress disorder, or brain injury;

(ii) is a developmental disability, as defined in section 15002 of this title; or

(iii) is the disease of acquired immunodeficiency syndrome or any condition arising from the etiologic agency for acquired immunodeficiency syndrome.

**(B) Rule**

Nothing in clause (iii) of subparagraph (A) shall be construed to limit eligibility under clause (i) or (ii) of subparagraph (A).

**(10) Legal entity**

The term “legal entity” means—

(A) an entity described in section 501(c)(3) of title 26 and exempt from tax under section 501(a) of such title;

(B) an instrumentality of State or local government; or

(C) a consortium of instrumentalities of State or local governments that has constituted itself as an entity.

**(11) Metropolitan city; urban county; non-entitlement area**

The terms “metropolitan city”, “urban county”, and “nonentitlement area” have the

meanings given such terms in section 5302(a) of this title.

**(12) New**

The term “new” means, with respect to housing, that no assistance has been provided under this subchapter for the housing.

**(13) Operating costs**

The term “operating costs” means expenses incurred by a project sponsor operating transitional housing or permanent housing under this subchapter with respect to—

(A) the administration, maintenance, repair, and security of such housing;

(B) utilities, fuel, furnishings, and equipment for such housing; or

(C) coordination of services as needed to ensure long-term housing stability.

**(14) Outpatient health services**

The term “outpatient health services” means outpatient health care services, mental health services, and outpatient substance abuse services.

**(15) Permanent housing**

The term “permanent housing” means community-based housing without a designated length of stay, and includes both permanent supportive housing and permanent housing without supportive services.

**(16) Personally identifying information**

The term “personally identifying information” means individually identifying information for or about an individual, including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, including—

(A) a first and last name;

(B) a home or other physical address;

(C) contact information (including a postal, e-mail or Internet protocol address, or telephone or facsimile number);

(D) a social security number; and

(E) any other information, including date of birth, racial or ethnic background, or religious affiliation, that, in combination with any other non-personally identifying information, would serve to identify any individual.

**(17) Private nonprofit organization**

The term “private nonprofit organization” means an organization—

(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

(B) that has a voluntary board;

(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

(D) that practices nondiscrimination in the provision of assistance.

**(18) Project**

The term “project” means, with respect to activities carried out under part C, eligible activities described in section 11383(a) of this title, undertaken pursuant to a specific endeavor, such as serving a particular population or providing a particular resource.

<sup>1</sup> So in original. Probably should be “of this”.

**(19) Project-based**

The term “project-based” means, with respect to rental assistance, that the assistance is provided pursuant to a contract that—

(A) is between—

- (i) the recipient or a project sponsor; and
- (ii) an owner of a structure that exists as of the date the contract is entered into; and

(B) provides that rental assistance payments shall be made to the owner and that the units in the structure shall be occupied by eligible persons for not less than the term of the contract.

**(20) Project sponsor**

The term “project sponsor” means, with respect to proposed eligible activities, the organization directly responsible for carrying out the proposed eligible activities.

**(21) Recipient**

Except as used in part B, the term “recipient” means an eligible entity who—

(A) submits an application for a grant under section 11382 of this title that is approved by the Secretary;

(B) receives the grant directly from the Secretary to support approved projects described in the application; and

(C)(i) serves as a project sponsor for the projects; or

(ii) awards the funds to project sponsors to carry out the projects.

**(22) Secretary**

The term “Secretary” means the Secretary of Housing and Urban Development.

**(23) Serious mental illness**

The term “serious mental illness” means a severe and persistent mental illness or emotional impairment that seriously limits a person’s ability to live independently.

**(24) Solo applicant**

The term “solo applicant” means an entity that is an eligible entity, directly submits an application for a grant under part C to the Secretary, and, if awarded such grant, receives such grant directly from the Secretary.

**(25) Sponsor-based**

The term “sponsor-based” means, with respect to rental assistance, that the assistance is provided pursuant to a contract that—

(A) is between—

- (i) the recipient or a project sponsor; and
- (ii) an independent entity that—
  - (I) is a private organization; and
  - (II) owns or leases dwelling units; and

(B) provides that rental assistance payments shall be made to the independent entity and that eligible persons shall occupy such assisted units.

**(26) State**

Except as used in part B, the term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the

Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

**(27) Supportive services**

The term “supportive services” means services that address the special needs of people served by a project, including—

(A) the establishment and operation of a child care services program for families experiencing homelessness;

(B) the establishment and operation of an employment assistance program, including providing job training;

(C) the provision of outpatient health services, food, and case management;

(D) the provision of assistance in obtaining permanent housing, employment counseling, and nutritional counseling;

(E) the provision of outreach services, advocacy, life skills training, and housing search and counseling services;

(F) the provision of mental health services, trauma counseling, and victim services;

(G) the provision of assistance in obtaining other Federal, State, and local assistance available for residents of supportive housing (including mental health benefits, employment counseling, and medical assistance, but not including major medical equipment);

(H) the provision of legal services for purposes including requesting reconsiderations and appeals of veterans and public benefit claim denials and resolving outstanding warrants that interfere with an individual’s ability to obtain and retain housing;

(I) the provision of—

(i) transportation services that facilitate an individual’s ability to obtain and maintain employment; and

(ii) health care; and

(J) other supportive services necessary to obtain and maintain housing.

**(28) Tenant-based**

The term “tenant-based” means, with respect to rental assistance, assistance that—

(A) allows an eligible person to select a housing unit in which such person will live using rental assistance provided under part C, except that if necessary to assure that the provision of supportive services to a person participating in a program is feasible, a recipient or project sponsor may require that the person live—

(i) in a particular structure or unit for not more than the first year of the participation;

(ii) within a particular geographic area for the full period of the participation, or the period remaining after the period referred to in subparagraph (A); and

(B) provides that a person may receive such assistance and move to another structure, unit, or geographic area if the person has complied with all other obligations of the program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking,

and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit.

**(29) Transitional housing**

The term “transitional housing” means housing the purpose of which is to facilitate the movement of individuals and families experiencing homelessness to permanent housing within 24 months or such longer period as the Secretary determines necessary.

**(30) Unified funding agency**

The term “unified funding agency” means a collaborative applicant that performs the duties described in section 11360a(g) of this title.

**(31) Underserved populations**

The term “underserved populations” includes populations underserved because of geographic location, underserved racial and ethnic populations, populations underserved because of special needs (such as language barriers, disabilities, alienage status, or age), and any other population determined to be underserved by the Secretary, as appropriate.

**(32) Victim service provider**

The term “victim service provider” means a private nonprofit organization whose primary mission is to provide services to victims of domestic violence, dating violence, sexual assault, or stalking. Such term includes rape crisis centers, battered women’s shelters, domestic violence transitional housing programs, and other programs.

**(33) Victim services**

The term “victim services” means services that assist domestic violence, dating violence, sexual assault, or stalking victims, including services offered by rape crisis centers and domestic violence shelters, and other organizations, with a documented history of effective work concerning domestic violence, dating violence, sexual assault, or stalking.

(Pub. L. 100–77, title IV, §401, as added Pub. L. 111–22, div. B, title I, §1101(3), May 20, 2009, 123 Stat. 1669.)

ENACTMENT OF SECTION

*This section is enacted, and existing section 401 of Pub. L. 100–77 (42 U.S.C. 11361) is renumbered section 403 of Pub. L. 100–77, effective as provided in section 1503 of Pub. L. 111–22, set out as an Effective Date of 2009 Amendment note under section 11302 of this title.*

EFFECTIVE DATE

Section effective on the earlier of 18 months after May 20, 2009, or 3 months after publication of certain final regulations by Secretary of Housing and Urban Development, see section 1503 of Pub. L. 111–22, set out as an Effective Date of 2009 Amendment note under section 11302 of this title.

**§ 11360a. Collaborative applicants**

**(a) Establishment and designation**

A collaborative applicant shall be established for a geographic area by the relevant parties in that geographic area to—

(1) submit an application for amounts under this part; and

(2) perform the duties specified in subsection (f) and, if applicable, subsection (g).

**(b) No requirement to be a legal entity**

An entity may be established to serve as a collaborative applicant under this section without being a legal entity.

**(c) Remedial action**

If the Secretary finds that a collaborative applicant for a geographic area does not meet the requirements of this section, or if there is no collaborative applicant for a geographic area, the Secretary may take remedial action to ensure fair distribution of grant amounts under part C to eligible entities within that area. Such measures may include designating another body as a collaborative applicant, or permitting other eligible entities to apply directly for grants.

**(d) Construction**

Nothing in this section shall be construed to displace conflict of interest or government fair practices laws, or their equivalent, that govern applicants for grant amounts under parts B and C.

**(e) Appointment of agent**

**(1) In general**

Subject to paragraph (2), a collaborative applicant may designate an agent to—

(A) apply for a grant under section 11382(c) of this title;

(B) receive and distribute grant funds awarded under part C; and

(C) perform other administrative duties.

**(2) Retention of duties**

Any collaborative applicant that designates an agent pursuant to paragraph (1) shall regardless of such designation retain all of its duties and responsibilities under this subchapter.

**(f) Duties**

A collaborative applicant shall—

(1) design a collaborative process for the development of an application under part C, and for evaluating the outcomes of projects for which funds are awarded under part B, in such a manner as to provide information necessary for the Secretary—

(A) to determine compliance with—

(i) the program requirements under section 11386 of this title; and

(ii) the selection criteria described under section 11386a of this title; and

(B) to establish priorities for funding projects in the geographic area involved;

(2) participate in the Consolidated Plan for the geographic area served by the collaborative applicant; and

(3) ensure operation of, and consistent participation by, project sponsors in a community-wide homeless management information system (in this subsection referred to as “HMIS”) that—

(A) collects unduplicated counts of individuals and families experiencing homelessness;

(B) analyzes patterns of use of assistance provided under parts B and C for the geographic area involved;

(C) provides information to project sponsors and applicants for needs analyses and funding priorities; and

(D) is developed in accordance with standards established by the Secretary, including standards that provide for—

(i) encryption of data collected for purposes of HMIS;

(ii) documentation, including keeping an accurate accounting, proper usage, and disclosure, of HMIS data;

(iii) access to HMIS data by staff, contractors, law enforcement, and academic researchers;

(iv) rights of persons receiving services under this subchapter;

(v) criminal and civil penalties for unlawful disclosure of data; and

(vi) such other standards as may be determined necessary by the Secretary.

#### (g) Unified funding

##### (1) In general

In addition to the duties described in subsection (f), a collaborative applicant shall receive from the Secretary and distribute to other project sponsors in the applicable geographic area funds for projects to be carried out by such other project sponsors, if—

(A) the collaborative applicant—

(i) applies to undertake such collection and distribution responsibilities in an application submitted under this part; and

(ii) is selected to perform such responsibilities by the Secretary; or

(B) the Secretary designates the collaborative applicant as the unified funding agency in the geographic area, after—

(i) a finding by the Secretary that the applicant—

(I) has the capacity to perform such responsibilities; and

(II) would serve the purposes of this chapter as they apply to the geographic area; and

(ii) the Secretary provides the collaborative applicant with the technical assistance necessary to perform such responsibilities as such assistance is agreed to by the collaborative applicant.

##### (2) Required actions by a unified funding agency

A collaborative applicant that is either selected or designated as a unified funding agency for a geographic area under paragraph (1) shall—

(A) require each project sponsor who is funded by a grant received under part C to establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of, and accounting for, Federal funds awarded to the project sponsor under part C in order to ensure that all financial transactions carried out under part C are conducted, and records maintained, in accordance with generally accepted accounting principles; and

(B) arrange for an annual survey, audit, or evaluation of the financial records of each

project carried out by a project sponsor funded by a grant received under part C.

#### (h) Conflict of interest

No board member of a collaborative applicant may participate in decisions of the collaborative applicant concerning the award of a grant, or provision of other financial benefits, to such member or the organization that such member represents.

(Pub. L. 100-77, title IV, § 402, as added Pub. L. 111-22, div. B, title I, § 1102, May 20, 2009, 123 Stat. 1674.)

#### ENACTMENT OF SECTION

*This section is enacted, and existing section 402 of Pub. L. 100-77 (42 U.S.C. 11362) is renumbered section 406 of Pub. L. 100-77, effective as provided in section 1503 of Pub. L. 111-22, set out as an Effective Date of 2009 Amendment note under section 11302 of this title.*

#### REFERENCES IN TEXT

This chapter, referred to in subsec. (g)(1)(B)(i)(II), was in the original “this Act”, meaning Pub. L. 100-77, July 22, 1987, 101 Stat. 482, known as the McKinney-Vento Homeless Assistance Act. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of this title and Tables.

#### EFFECTIVE DATE

Section effective on the earlier of 18 months after May 20, 2009, or 3 months after publication of certain final regulations by Secretary of Housing and Urban Development, see section 1503 of Pub. L. 111-22, set out as an Effective Date of 2009 Amendment note under section 11302 of this title.

#### § 11361. Housing affordability strategy

Assistance may be made under this subchapter only if the grantee certifies that it is following—

(1) a current housing affordability strategy which has been approved by the Secretary in accordance with section 12705 of this title, or

(2) a comprehensive homeless assistance plan which was approved by the Secretary during the 180-day period beginning on November 28, 1990, or during such longer period as may be prescribed by the Secretary in any case for good cause.

(Pub. L. 100-77, title IV, § 401, July 22, 1987, 101 Stat. 494; Pub. L. 100-628, title IV, §§ 401-404, Nov. 7, 1988, 102 Stat. 3230, 3231; Pub. L. 101-625, title VIII, §§ 831, 832(e)(3), 836(a), Nov. 28, 1990, 104 Stat. 4357, 4360, 4366; Pub. L. 111-22, div. B, title I, § 1101(2), title V, § 1502(a), May 20, 2009, 123 Stat. 1669, 1701.)

#### RENUMBERING AND AMENDMENT OF SECTION

*Pub. L. 111-22, div. B, title I, § 1101(2), title V, §§ 1502(a), 1503, May 20, 2009, 123 Stat. 1669, 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22:*

*(1) section 401 of Pub. L. 100-77, which is classified to this section, is renumbered as section 403 of Pub. L. 100-77; and*

(2) paragraph (1) of this section is amended—  
 (A) by substituting “consolidated plan” for “current housing affordability strategy”; and  
 (B) by inserting before the comma “(referred to in such section as a ‘comprehensive housing affordability strategy’)”.

## AMENDMENTS

1990—Pub. L. 101-625, §836(a), amended section generally, substituting present provisions for provisions requiring the annual submission of a comprehensive homeless assistance plan with requirements for contents of the plan, review of the plan, performance reviews under the plan, publication by notice, applications for assistance, coordination with State agencies, and consultation with other private and public groups and entities regarding the plan.

Subsec. (a). Pub. L. 101-625, §831(b)(1), inserted at end “Assistance authorized by this subchapter may be provided to any Indian tribe that is eligible to receive a grant under the emergency shelter grants program in any fiscal year, but only if the tribe submits biennially to the Secretary of Housing and Urban Development a comprehensive homeless assistance plan under this section.”

Subsec. (a)(1). Pub. L. 101-625, §831(c)(2)(A), substituted “biennially” for “annually”.

Subsec. (b)(2). Pub. L. 101-625, §831(c)(2)(B), substituted “, services, and programs” for “and services”.

Subsec. (b)(3). Pub. L. 101-625, §831(c)(2)(C), substituted “, services, and programs” for “and services” in cl. (A), struck out “and” before “(B)”, and added cls. (C) to (F).

Subsec. (b)(5). Pub. L. 101-625, §831(b)(2), inserted “Indian tribe,” after “State,”.

Subsec. (b)(7), (8). Pub. L. 101-625, §831(a), added pars. (7) and (8).

Subsec. (b)(9). Pub. L. 101-625, §832(e)(3), added par. (9).

Subsecs. (c)(1), (d). Pub. L. 101-625, §831(b)(3), (4), inserted “Indian tribe,” after “State,” wherever appearing.

Subsec. (g). Pub. L. 101-625, §831(b)(5), inserted “(or tribal agency or contact)” after “State contact person”, “(or tribe)” before comma, and “(or tribal agency or contact person)” after “or contact person”.

Subsec. (h). Pub. L. 101-625, §831(c)(1), added subsec. (h).

1988—Subsec. (a)(1). Pub. L. 100-628, §401(a), inserted “annually” after “submits”.

Subsec. (a)(2), (3). Pub. L. 100-628, §401(b), added par. (2) and redesignated former par. (2) as (3).

Subsec. (b)(3). Pub. L. 100-628, §402(1), inserted “facilities and” before “services” and struck out “and” at end.

Subsec. (b)(4). Pub. L. 100-628, §402(2), inserted “facilities and” before “services” and substituted a semicolon for period at end.

Subsec. (b)(5), (6). Pub. L. 100-628, §402(3), added pars. (5) and (6).

Subsec. (d)(3). Pub. L. 100-628, §403, inserted before period at end “or to respond to recommendations made in accordance with paragraph (2) that are received at least 60 days prior to the beginning of the fiscal year”.

Subsec. (g). Pub. L. 100-628, §404, added subsec. (g).

## EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-22 effective on the earlier of 18 months after May 20, 2009, or 3 months after publication of certain final regulations by Secretary of Housing and Urban Development, see section 1503 of Pub. L. 111-22, set out as a note under section 11302 of this title.

## EFFECTIVE DATE OF 1990 AMENDMENT

Section 836(b) of Pub. L. 101-625 provided that: “The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1991.”

## EVALUATION OF PROGRAMS

Pub. L. 102-550, title XIV, §1409, Oct. 28, 1992, 106 Stat. 4038, as amended by Pub. L. 105-362, title VII, §701(c), Nov. 10, 1998, 112 Stat. 3287; Pub. L. 106-400, §2, Oct. 30, 2000, 114 Stat. 1675, provided that: “The Secretary of Housing and Urban Development shall conduct a comprehensive review and evaluation of the effectiveness of each program under title IV of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11361 et seq.]. In conducting the review, the Secretary shall examine procedures of the Department in carrying out such programs, the procedures of recipients of assistance under such programs in carrying out such programs, and the effects and benefits of such programs; shall survey homeless individuals and families assisted under each program in various jurisdictions receiving assistance under each program; shall determine whether such programs are fulfilling the purposes for which they were established; and shall evaluate the usefulness and effectiveness of such programs.”

## HOMELESS HOUSING ACT OF 1986

Pub. L. 99-500, §101(g) [H.R. 5313, title V], Oct. 18, 1986, 100 Stat. 1783-242, and Pub. L. 99-591, §101(g) [H.R. 5313, title V], Oct. 30, 1986, 100 Stat. 3341-242; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100-202, §106, Dec. 22, 1987, 101 Stat. 1329-433, provided that title V of H.R. 5315 be cited as the “Homeless Housing Act of 1986”, established a transitional housing demonstration program and directed Secretary of Housing and Urban Development to submit to Congress, not later than 3 months after the end of fiscal year 1987, an interim report summarizing activities under this program during such fiscal year and, not later than 6 months after the end of fiscal year 1988, a final report summarizing such activities, established an emergency shelter grants program to make grants to States, units of local government, and private nonprofit organizations providing assistance to the homeless, and appropriated \$15,000,000 for fiscal year 1987, to remain available until expended, to carry out both programs.

## § 11361a. Preventing involuntary family separation

## (a) In general

After the expiration of the 2-year period that begins upon May 20, 2009, and except as provided in subsection (b), any project sponsor receiving funds under this subchapter to provide emergency shelter, transitional housing, or permanent housing to families with children under age 18 shall not deny admission to any family based on the age of any child under age 18.

## (b) Exception

Notwithstanding the requirement under subsection (a), project sponsors of transitional housing receiving funds under this subchapter may target transitional housing resources to families with children of a specific age only if the project sponsor—

(1) operates a transitional housing program that has a primary purpose of implementing an evidence-based practice that requires that housing units be targeted to families with children in a specific age group; and

(2) provides such assurances, as the Secretary shall require, that an equivalent appropriate alternative living arrangement for the whole family or household unit has been secured.

(Pub. L. 100-77, title IV, §404, as added Pub. L. 111-22, div. B, title I, §1103, May 20, 2009, 123 Stat. 1677.)

## CODIFICATION

Section 1103 of Pub. L. 111-22, which directed amendment of subtitle A of the McKinney-Vento Homeless Assistance Act by adding this section after section 403 (as so redesignated by section 1101(2) of Pub. L. 111-22), was executed by adding this section following section 403 (42 U.S.C. 11361) of subtitle A of title IV of Pub. L. 100-77 (this part), to reflect the probable intent of Congress.

## EFFECTIVE DATE

Section effective on the earlier of 18 months after May 20, 2009, or 3 months after publication of certain final regulations by Secretary of Housing and Urban Development, see section 1503 of Pub. L. 111-22, set out as an Effective Date of 2009 Amendment note under section 11302 of this title.

**§ 11361b. Technical assistance****(a) In general**

The Secretary shall make available technical assistance to private nonprofit organizations and other nongovernmental entities, States, metropolitan cities, urban counties, and counties that are not urban counties, to implement effective planning processes for preventing and ending homelessness, to improve their capacity to prepare collaborative applications, to prevent the separation of families in emergency shelter or other housing programs, and to adopt and provide best practices in housing and services for persons experiencing homeless.

**(b) Reservation**

The Secretary shall reserve not more than 1 percent of the funds made available for any fiscal year for carrying out parts B and C, to provide technical assistance under subsection (a).

(Pub. L. 100-77, title IV, § 405, as added Pub. L. 111-22, div. B, title I, § 1103, May 20, 2009, 123 Stat. 1677.)

## CODIFICATION

Section 1103 of Pub. L. 111-22, which directed amendment of subtitle A of the McKinney-Vento Homeless Assistance Act by adding this section after section 404, was executed by adding this section following section 404 (42 U.S.C. 11361a) of subtitle A of title IV of Pub. L. 100-77 (this part), to reflect the probable intent of Congress.

## EFFECTIVE DATE

Section effective on the earlier of 18 months after May 20, 2009, or 3 months after publication of certain final regulations by Secretary of Housing and Urban Development, see section 1503 of Pub. L. 111-22, set out as an Effective Date of 2009 Amendment note under section 11302 of this title.

**§ 11362. Discharge coordination policy**

The Secretary may not provide a grant under this subchapter for any governmental entity serving as an applicant unless the applicant agrees to develop and implement, to the maximum extent practicable and where appropriate, policies and protocols for the discharge of persons from publicly funded institutions or systems of care (such as health care facilities, foster care or other youth facilities, or correction programs and institutions) in order to prevent such discharge from immediately resulting in homelessness for such persons.

(Pub. L. 100-77, title IV, § 402, as added Pub. L. 106-377, § 1(a)(1) [title II, § 229(a)], Oct. 27, 2000, 114

Stat. 1441, 1441A-30; Pub. L. 111-22, div. B, title I, § 1101(2), May 20, 2009, 123 Stat. 1669.)

## RENUMBERING OF SECTION

*Pub. L. 111-22, div. B, title I, § 1101(2), title V, § 1503, May 20, 2009, 123 Stat. 1669, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, section 402 of Pub. L. 100-77, which is classified to this section, is renumbered as section 406 of Pub. L. 100-77.*

**§ 11363. Protection of personally identifying information by victim service providers**

In the course of awarding grants or implementing programs under this subchapter, the Secretary shall instruct any victim service provider that is a recipient or subgrantee not to disclose for purposes of the Homeless Management Information System any personally identifying information about any client. The Secretary may, after public notice and comment, require or ask such recipients and subgrantees to disclose for purposes of the Homeless Management Information System non-personally identifying information that has been de-identified, encrypted, or otherwise encoded. Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this subsection for victims of domestic violence, dating violence, sexual assault, or stalking.

(Pub. L. 100-77, title IV, § 407, as added Pub. L. 111-22, div. B, title I, § 1104, May 20, 2009, 123 Stat. 1677.)

## CODIFICATION

Section 1104 of Pub. L. 111-22, which directed amendment of subtitle A of the McKinney-Vento Homeless Assistance Act by adding this section at the end, was executed by adding this section at the end of subtitle A of title IV of Pub. L. 100-77 (this part), to reflect the probable intent of Congress.

## EFFECTIVE DATE

Section effective on the earlier of 18 months after May 20, 2009, or 3 months after publication of certain final regulations by Secretary of Housing and Urban Development, see section 1503 of Pub. L. 111-22, set out as an Effective Date of 2009 Amendment note under section 11302 of this title.

**§ 11364. Authorization of appropriations**

There are authorized to be appropriated to carry out this subchapter \$2,200,000,000 for fiscal year 2010 and such sums as may be necessary for fiscal year 2011.

(Pub. L. 100-77, title IV, § 408, as added Pub. L. 111-22, div. B, title I, § 1105, May 20, 2009, 123 Stat. 1678.)

## CODIFICATION

Section 1105 of Pub. L. 111-22, which directed amendment of subtitle A of the McKinney-Vento Homeless Assistance Act by adding this section at the end, was executed by adding this section at the end of subtitle

A of title IV of Pub. L. 100-77 (this part), to reflect the probable intent of Congress.

#### EFFECTIVE DATE

Section effective on the earlier of 18 months after May 20, 2009, or 3 months after publication of certain final regulations by Secretary of Housing and Urban Development, see section 1503 of Pub. L. 111-22, set out as an Effective Date of 2009 Amendment note under section 11302 of this title.

#### PART B—EMERGENCY SHELTER GRANTS PROGRAM

##### AMENDMENT OF PART

*Pub. L. 111-22, div. B, title II, §1201(1), title V, §1503, May 20, 2009, 123 Stat. 1678, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, the part heading is amended by substituting “Emergency Solutions Grants Program” for “Emergency Shelter Grants Program”.*

#### § 11371. Definitions

For purposes of this part:

(1) The term “local government” means a unit of general purpose local government.

(2) The term “locality” means the geographical area within the jurisdiction of a local government.

(3) The term “metropolitan city” has the meaning given such term in section 5302 of this title.

(4) The term “operating costs” means expenses incurred by a recipient operating a facility assisted under this part with respect to—

(A) the administration, maintenance, repair, and security of such housing; and

(B) utilities, fuels, furnishings, and equipment for such housing.

(5) The term “private nonprofit organization” means a secular or religious organization described in section 501(c) of title 26 that is exempt from taxation under subtitle A of title 26, has an accounting system and a voluntary board, and practices nondiscrimination in the provision of assistance.

(6) The term “recipient” means any governmental or private nonprofit entity that is approved by the Secretary as to financial responsibility.

(7) The term “Secretary” means the Secretary of Housing and Urban Development.

(8) The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(9) The term “urban county” has the meaning given such term in section 5302 of this title.

(Pub. L. 100-77, title IV, §411, July 22, 1987, 101 Stat. 495; Pub. L. 101-625, title VIII, §832(f)(1),

Nov. 28, 1990, 104 Stat. 4361; Pub. L. 104-330, title V, §506(a)(1), Oct. 26, 1996, 110 Stat. 4044.)

#### AMENDMENTS

1996—Par. (10). Pub. L. 104-330 struck out par. (10) which read as follows: “The term ‘Indian tribe’ has the meaning given such term in section 5302(a)(17) of this title.”

1990—Par. (10). Pub. L. 101-625 added par. (10).

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104-330, set out as an Effective Date note under section 4101 of Title 25, Indians.

Section 506(c) of Pub. L. 104-330, as amended by Pub. L. 106-400, §2, Oct. 30, 2000, 114 Stat. 1675, provided that: “The amendments under subsections (a) [amending this section and sections 11372 to 11376, 11382, 11401, 11403g, and 11408 of this title] and (b) [amending provisions formerly set out as a note under section 11301 of this title] shall apply with respect to amounts made available for assistance under title IV of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11361 et seq.] and section 2 of the HUD Demonstration Act of 1993 [Pub. L. 103-120, former 42 U.S.C. 11301 note], respectively, for fiscal year 1998 and fiscal years thereafter.”

#### TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

#### § 11372. Grant assistance

The Secretary of Housing and Urban Development shall, to the extent of amounts approved in appropriation Acts under section 11377 of this title, make grants to States and local governments (and to private nonprofit organizations providing assistance to homeless individuals, in the case of grants made with reallocated amounts) in order to carry out activities described in section 11374 of this title.

(Pub. L. 100-77, title IV, §412, July 22, 1987, 101 Stat. 496; Pub. L. 101-625, title VIII, §832(f)(2), Nov. 28, 1990, 104 Stat. 4361; Pub. L. 104-330, title V, §506(a)(2), Oct. 26, 1996, 110 Stat. 4044.)

#### REPEAL OF SECTION AND ENACTMENT OF NEW SECTION

*Pub. L. 111-22, div. B, title II, §1201(4), title V, §1503, May 20, 2009, 123 Stat. 1678, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is repealed and a new section 11372 of this title is enacted to read as follows:*

#### § 11372. Grant assistance

*The Secretary shall make grants to States and local governments (and to private nonprofit organizations providing assistance to persons experiencing homelessness or at risk of homelessness, in the case of grants made with reallocated amounts) for the purpose of carrying out activities described in section 11374 of this title.*

#### AMENDMENTS

1996—Pub. L. 104-330 struck out “, and for Indian tribes,” after “local governments”.

1990—Pub. L. 101-625 substituted “States and local governments, and for Indian tribes,” for “States and local governments”.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104-330, set out as an Effective Date note under section 4101 of Title 25, Indians.

Amendment by Pub. L. 104-330 applicable with respect to amounts made available for assistance under this subchapter for fiscal year 1998 and fiscal years thereafter, see section 506(c) of Pub. L. 104-330, set out as a note under section 11371 of this title.

### § 11372a. Amount and allocation of assistance

#### (a) In general

Of the amount made available to carry out this part and part C for a fiscal year, the Secretary shall allocate nationally 20 percent of such amount for activities described in section 11374 of this title. The Secretary shall be required to certify that such allocation will not adversely affect the renewal of existing projects under this part and part C for those individuals or families who are homeless.

#### (b) Allocation

An entity that receives a grant under section 11372 of this title, and serves an area that includes 1 or more geographic areas (or portions of such areas) served by collaborative applicants that submit applications under part C, shall allocate the funds made available through the grant to carry out activities described in section 11374 of this title, in consultation with the collaborative applicants.

(Pub. L. 100-77, title IV, § 413, as added Pub. L. 111-22, div. B, title II, § 1201(4), May 20, 2009, 123 Stat. 1678.)

#### ENACTMENT OF SECTION

*This section is enacted, and existing section 413 of Pub. L. 100-77 (42 U.S.C. 11373) is renumbered section 414 of Pub. L. 100-77, effective as provided in section 1503 of Pub. L. 111-22, set out as an Effective Date of 2009 Amendment note under section 11302 of this title.*

#### EFFECTIVE DATE

Section effective on the earlier of 18 months after May 20, 2009, or 3 months after publication of certain final regulations by Secretary of Housing and Urban Development, see section 1503 of Pub. L. 111-22, set out as an Effective Date of 2009 Amendment note under section 11302 of this title.

### § 11373. Allocation and distribution of assistance

#### (a) In general

The Secretary shall allocate assistance under this part to metropolitan cities, urban counties, and States (for distribution to local governments and private nonprofit organizations in the States) in a manner that ensures that the percentage of the total amount available under this part for any fiscal year that is allocated to any State, metropolitan city, or urban county is equal to the percentage of the total amount available for section 5306 of this title for such prior fiscal year that is allocated to such State, metropolitan city, or urban county.

#### (b) Minimum allocation requirement

If, under the allocation provisions applicable under this part, any metropolitan city or urban

county would receive a grant of less than 0.05 percent of the amounts appropriated to carry out this part for any fiscal year, such amount shall instead be reallocated to the State, except that any city that is located in a State that does not have counties as local governments, that has a population greater than 40,000 but less than 50,000 as used in determining the fiscal year 1987 community development block grant program allocation, and that was allocated in excess of \$1,000,000 in community development block grant funds in fiscal year 1987, shall receive directly the amount allocated to such city under subsection (a) of this section.

#### (c) Distributions to nonprofit organizations

Any local government receiving assistance under this part may distribute all or a portion of such assistance to private nonprofit organizations providing assistance to homeless individuals. Any State receiving assistance under this part may distribute all or a portion of such assistance to private nonprofit organizations providing assistance to homeless individuals, if the local government for the locality in which the project is located certifies that it approves of the project.

#### (d) Reallocation of funds

(1) The Secretary shall, not less than twice during each fiscal year, reallocate any assistance provided under this part that is unused or returned or that becomes available under subsection (b) of this section.

(2) If a city or county eligible for a grant under subsection (a) of this section fails to obtain approval of its comprehensive plan during the 90-day period following the date funds authorized by this part first become available for allocation during any fiscal year, the amount that the city or county would have received shall be available to the State in which the city or county is located if the State has obtained approval of its comprehensive plan. Any amounts that cannot be allocated to a State under the preceding sentence shall be reallocated to other States, counties, and cities that demonstrate extraordinary need or large numbers of homeless individuals, as determined by the Secretary.

(3) If a State fails to obtain approval of its comprehensive plan during the 90-day period following the date funds authorized by this part first become available for allocation during any fiscal year, the amount that the State would have received shall be reallocated to other States and to cities and counties as applicable, that demonstrate extraordinary need or large numbers of homeless individuals, as determined by the Secretary.

#### (e) Allocations to territories

In addition to the other allocations required in this section, the Secretary shall (for amounts appropriated after July 22, 1987) allocate assistance under this part to the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, in accordance with an allocation formula established by the Secretary.

(Pub. L. 100-77, title IV, § 413, July 22, 1987, 101 Stat. 496; Pub. L. 100-628, title IV, § 421, Nov. 7,



1988, 102 Stat. 3231; Pub. L. 101-625, title VIII, § 832(f)(3)–(5), Nov. 28, 1990, 104 Stat. 4361; Pub. L. 104-330, title V, § 506(a)(3), Oct. 26, 1996, 110 Stat. 4044; Pub. L. 111-22, div. B, title II, § 1201(3), (5), May 20, 2009, 123 Stat. 1678, 1679.)

#### RENUMBERING OF SECTION AND AMENDMENT OF SUBSECTION (b)

*Pub. L. 111-22, div. B, title II, § 1201(3), (5), title V, § 1503, May 20, 2009, 123 Stat. 1678, 1679, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22:*

*(1) section 413 of Pub. L. 100-77, which is classified to this section, is renumbered as section 414 of Pub. L. 100-77; and*

*(2) subsection (b) of this section is amended by substituting “amounts appropriated under section 11364 of this title and made available to carry out this part for any” for “amounts appropriated to carry out this part for any”.*

#### AMENDMENTS

1996—Subsec. (a). Pub. L. 104-330, § 506(a)(3)(A), struck out “, and to Indian tribes,” after “in the States)” and “, or for Indian tribes” after “or urban county” in two places.

Subsec. (c). Pub. L. 104-330, § 506(a)(3)(B), struck out “or Indian tribe” after “Any local government”.

Subsec. (d)(3). Pub. L. 104-330, § 506(a)(3)(C)(ii), struck out “, or other Indian tribes,” after “cities and counties”.

Pub. L. 104-330, § 506(a)(3)(C)(i), which directed amendment of par. (3) by striking “, or Indian tribe” each place it appeared, was executed by striking “or Indian tribe” after “State” in two places to reflect the probable intent of Congress.

1990—Subsec. (a). Pub. L. 101-625, § 832(f)(3), inserted “, and to Indian tribes,” after “States)” and “, or for Indian tribes” after “urban county” in two places.

Subsec. (c). Pub. L. 101-625, § 832(f)(4), inserted “or Indian tribe” after “local government”.

Subsec. (d)(3). Pub. L. 101-625, § 832(f)(5), inserted “or Indian tribe” after “State” in two places and “, or other Indian tribes, as applicable,” after “counties”.

1988—Subsec. (a). Pub. L. 100-628, § 421(a), inserted “and private nonprofit organizations” after “local governments”.

Subsec. (c). Pub. L. 100-628, § 421(b), inserted at end “Any State receiving assistance under this part may distribute all or a portion of such assistance to private nonprofit organizations providing assistance to homeless individuals, if the local government for the locality in which the project is located certifies that it approves of the project.”

#### EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-22 effective on the earlier of 18 months after May 20, 2009, or 3 months after publication of certain final regulations by Secretary of Housing and Urban Development, see section 1503 of Pub. L. 111-22, set out as a note under section 11302 of this title.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104-330, set out as an Effective Date note under section 4101 of Title 25, Indians.

Amendment by Pub. L. 104-330 applicable with respect to amounts made available for assistance under this subchapter for fiscal year 1998 and fiscal years

thereafter, see section 506(c) of Pub. L. 104-330, set out as a note under section 11371 of this title.

#### TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

### § 11374. Eligible activities

#### (a) In general

Assistance provided under this part may be used for the following activities relating to emergency shelter for homeless individuals:

(1) The renovation, major rehabilitation, or conversion of buildings to be used as emergency shelters.

(2) The provision of essential services, including services concerned with employment, health, drug abuse, or education, if—

(A) such services have not been provided by the local government during any part of the immediately preceding 12-month period, or the use of assistance under this part would complement those services; and

(B) not more than 30 percent of the aggregate amount of all assistance to a State or local government under this part is used for activities under this paragraph.

(3) Maintenance, operation, insurance, utilities, and furnishings, except that not more than 10 percent of the amount of any grant received under this part may be used for costs of staff.

(4) Efforts to prevent homelessness, such as financial assistance to families who have received eviction notices or notices of termination of utility services if—

(A) the inability of the family to make the required payments is due to a sudden reduction in income;

(B) the assistance is necessary to avoid the eviction or termination of services;

(C) there is a reasonable prospect that the family will be able to resume payments within a reasonable period of time; and

(D) the assistance will not supplant funding for preexisting homelessness prevention activities from other sources.

Activities that are eligible for assistance under this paragraph shall include assistance to very low-income families who are discharged from publicly funded institutions or systems of care (such as health care facilities, foster care or other youth facilities, or correction programs and institutions). Not more than 30 percent of the aggregate amount of all assistance to a State or local government under this part may be used for activities under this paragraph.

#### (b) Waiver authority

The Secretary may waive the 20 percent limitation on the use of assistance for essential services contained in subsection (a)(2)(B) of this section, if the local government receiving the assistance demonstrates that the other eligible activities under the program are already being carried out in the locality with other resources.

(Pub. L. 100-77, title IV, § 414, July 22, 1987, 101 Stat. 497; Pub. L. 100-628, title IV, §§ 422, 423(a),

Nov. 7, 1988, 102 Stat. 3231; Pub. L. 101-625, title VIII, § 832(c), (d), (f)(6), Nov. 28, 1990, 104 Stat. 4360, 4361; Pub. L. 102-550, title XIV, § 1402(e), Oct. 28, 1992, 106 Stat. 4013; Pub. L. 104-330, title V, § 506(a)(4), Oct. 26, 1996, 110 Stat. 4044; Pub. L. 106-377, § 1(a)(1) [title II, § 229(b)], Oct. 27, 2000, 114 Stat. 1441, 1441A-31; Pub. L. 111-22, div. B, title II, § 1201(3), May 20, 2009, 123 Stat. 1678.)

RENUMBERING AND REPEAL OF SECTION AND ENACTMENT OF NEW SECTION

*Pub. L. 111-22, div. B, title II, §§ 1201(3), 1202, title V, § 1503, May 20, 2009, 123 Stat. 1678, 1679, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22: section 414 of Pub. L. 100-77, which is classified to this section, is renumbered as section 415 of Pub. L. 100-77 and repealed and a new section 11374 is enacted to read as follows:*

§ 11374. Eligible activities

(a) In general

*Assistance provided under section 11372 of this title may be used for the following activities:*

*(1) The renovation, major rehabilitation, or conversion of buildings to be used as emergency shelters.*

*(2) The provision of essential services related to emergency shelter or street outreach, including services concerned with employment, health, education, family support services for homeless youth, substance abuse services, victim services, or mental health services, if—*

*(A) such essential services have not been provided by the local government during any part of the immediately preceding 12-month period or the Secretary determines that the local government is in a severe financial deficit; or*

*(B) the use of assistance under this part would complement the provision of those essential services.*

*(3) Maintenance, operation, insurance, provision of utilities, and provision of furnishings related to emergency shelter.*

*(4) Provision of rental assistance to provide short-term or medium-term housing to homeless individuals or families or individuals or families at risk of homelessness. Such rental assistance may include tenant-based or project-based rental assistance.*

*(5) Housing relocation or stabilization services for homeless individuals or families or individuals or families at risk of homelessness, including housing search, mediation or outreach to property owners, legal services, credit repair, providing security or utility deposits, utility payments, rental assistance for a final month at a location, assistance with moving costs, or other activities that are effective at—*

*(A) stabilizing individuals and families in their current housing; or*

*(B) quickly moving such individuals and families to other permanent housing.*

*(b) Maximum allocation for emergency shelter activities*

*A grantee of assistance provided under section 11372 of this title for any fiscal year may not use an*

*amount of such assistance for activities described in paragraphs (1) through (3) of subsection (a) that exceeds the greater of—*

*(1) 60 percent of the aggregate amount of such assistance provided for the grantee for such fiscal year; or*

*(2) the amount expended by such grantee for such activities during fiscal year most recently completed before the effective date under section 1503 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009.*

AMENDMENTS

2000—Subsec. (a)(4). Pub. L. 106-377 inserted comma after “homelessness” in introductory provisions and substituted “Activities that are eligible for assistance under this paragraph shall include assistance to very low-income families who are discharged from publicly funded institutions or systems of care (such as health care facilities, foster care or other youth facilities, or correction programs and institutions). Not” for “Not” in concluding provisions.

1996—Subsec. (a)(2). Pub. L. 104-330 struck out “or Indian tribe” after “local government” in subpar. (A) and substituted “or local government” for “, local government, or Indian tribe” in subpar. (B).

Subsec. (a)(4). Pub. L. 104-330 substituted “or local government” for “, local government, or Indian tribe” in concluding provisions.

1992—Subsec. (a)(3). Pub. L. 102-550 struck out “(other than staff)” after “operation” and inserted before period at end “, except that not more than 10 percent of the amount of any grant received under this part may be used for costs of staff”.

1990—Subsec. (a)(2)(A). Pub. L. 101-625, § 832(f)(6)(A), inserted “or Indian tribe” after “local government”.

Subsec. (a)(2)(B). Pub. L. 101-625, § 832(c), (f)(6)(B), substituted “30 percent” for “20 percent” and “, local government, or Indian tribe” for “or local government”.

Subsec. (a)(4). Pub. L. 101-625, § 832(d), substituted sentence at end for “Activities under this paragraph shall be treated as ‘essential services’ for the purpose of paragraph (2)(B).”

1988—Subsec. (a)(2)(A). Pub. L. 100-628, § 422(b), inserted before semicolon “, or the use of assistance under this part would complement those services”.

Subsec. (a)(2)(B). Pub. L. 100-628, § 422(a), substituted “20” for “15” and “the aggregate amount of all assistance to a State or” for “the amount of any assistance to a”.

Subsec. (a)(4). Pub. L. 100-628, § 423(a), added par. (4).

Subsec. (b). Pub. L. 100-628, § 422(a)(1), substituted “20” for “15”.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104-330, set out as an Effective Date note under section 4101 of Title 25, Indians.

Amendment by Pub. L. 104-330 applicable with respect to amounts made available for assistance under this subchapter for fiscal year 1998 and fiscal years thereafter, see section 506(c) of Pub. L. 104-330, set out as a note under section 11371 of this title.

REPORT BY COMPTROLLER GENERAL

Section 423(b) of Pub. L. 100-628 provided that: “The Comptroller General of the United States shall conduct a study and report to the Congress not later than 1 year after the date of the enactment of this Act [Nov. 7, 1988] on various programs to prevent homelessness implemented by grantees, with particular focus on the different methods employed by grantees to determine eligibility for homelessness prevention assistance and restrictions or limitations, if any, imposed under such programs. Such report shall include—

“(1) an examination of other homelessness prevention programs, including other Federal programs and State and local programs; and

“(2) recommendations for such legislation as the Comptroller General determines appropriate, including recommendations on how to prevent homelessness as a result of mortgage foreclosures.”

### § 11375. Responsibilities of recipients

#### (a) Matching amounts

(1) Except as provided in paragraph (2), each recipient under this part shall be required to supplement the assistance provided under this part with an equal amount of funds from sources other than this part. Each recipient shall certify to the Secretary its compliance with this paragraph, and shall include with such certification a description of the sources and amounts of such supplemental funds.

(2) Each recipient under this part that is a State shall be required to supplement the assistance provided under this part with an amount of funds from sources other than this part equal to the difference between the amount received under this part and \$100,000. If the amount received by the State is \$100,000 or less, the State may not be required to supplement the assistance provided under this part.

(3) In calculating the amount of supplemental funds provided by a recipient under this part, a recipient may include the value of any donated material or building, the value of any lease on a building, any salary paid to staff to carry out the program of the recipient, and the value of the time and services contributed by volunteers to carry out the program of the recipient at a rate determined by the Secretary.

#### (b) Administration of assistance

Each recipient shall act as the fiscal agent of the Secretary with respect to assistance provided to such recipient.

#### (c) Certifications on use of assistance

Each recipient shall certify to the Secretary that—

(1) it will—

(A) in the case of assistance involving major rehabilitation or conversion, maintain any building for which assistance is used under this part as a shelter for homeless individuals and families for not less than a 10-year period;

(B) in the case of assistance involving rehabilitation (other than major rehabilitation or conversion), maintain any building for which assistance is used under this part as a shelter for homeless individuals and families for not less than a 3-year period; or

(C) in the case of assistance involving solely activities described in paragraphs (2) and (3) of section 11374(a) of this title, provide services or shelter to homeless individuals and families for the period during which such assistance is provided, without regard to a particular site or structure as long as the same general population is served;

(2) any renovation carried out with assistance under this part shall be sufficient to ensure that the building involved is safe and sanitary;

(3) it will assist homeless individuals in obtaining—

(A) appropriate supportive services, including permanent housing, medical and

mental health treatment, counseling, supervision, and other services essential for achieving independent living; and

(B) other Federal, State, local, and private assistance available for such individuals;

(4) in the case of a recipient that is a State, it will obtain any matching amounts required under subsection (a) of this section in a manner so that local governments, agencies, and local nonprofit organizations receiving assistance from the grant that are least capable of providing the recipient State with such matching amounts receive the benefit of the \$100,000 subtrahend under subsection (a)(2) of this section;

(5) it will develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under this part and that the address or location of any family violence shelter project assisted under this part will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public;

(6) activities undertaken by the recipient with assistance under this part are consistent with any housing strategy submitted by the grantee in accordance with section 12705 of this title; and

(7) to the maximum extent practicable, it will involve, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted under this part, in providing services assisted under this part, and in providing services for occupants of facilities assisted under this part.

#### (d) Participation of homeless individuals

The Secretary shall, by regulation, require each recipient that is not a State to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policymaking entity of such recipient, to the extent that such entity considers and makes policies and decisions regarding any facility, services, or other assistance of the recipient assisted under this part. The Secretary may grant waivers to recipients unable to meet the requirement under the preceding sentence if the recipient agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

#### (e) Termination of assistance

If an individual or family who receives assistance under this part from a recipient violates program requirements, the recipient may terminate assistance in accordance with a formal process established by the recipient that recognizes the rights of individuals affected, which may include a hearing.

(Pub. L. 100-77, title IV, §415, July 22, 1987, 101 Stat. 497; Pub. L. 100-628, title IV, §424, Nov. 7, 1988, 102 Stat. 3232; Pub. L. 101-625, title VIII, §832(e)(1), (2), (h), Nov. 28, 1990, 104 Stat. 4360, 4362; Pub. L. 102-550, title XIV, §1402(b)-(d), Oct. 28, 1992, 106 Stat. 4012, 4013; Pub. L. 104-330, title V, §506(a)(5), Oct. 26, 1996, 110 Stat. 4044; Pub. L.

111–22, div. B, title II, §§1201(3), 1203, May 20, 2009, 123 Stat. 1678, 1680.)

#### RENUMBERING OF SECTION AND ADDITION OF SUBSECTION (f)

*Pub. L. 111–22, div. B, title II, §§1201(3), 1203, title V, §1503, May 20, 2009, 123 Stat. 1678, 1680, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111–22:*

*(1) section 415 of Pub. L. 100–77, which is classified to this section, is renumbered as section 416 of Pub. L. 100–77; and*

*(2) this section is amended by adding at the end the following new subsection:*

#### (f) Participation in HMIS

*The Secretary shall ensure that recipients of funds under this part ensure the consistent participation by emergency shelters and homelessness prevention and rehousing programs in any applicable community-wide homeless management information system.*

#### AMENDMENTS

1996—Subsec. (c)(4). Pub. L. 104–330 struck out “Indian tribes,” after “local governments.”

1992—Subsec. (c). Pub. L. 102–550, §1402(b), in par. (1), substituted a semicolon for period at end, in par. (3), struck out “and” at end, in par. (4), inserted “it will” after “State,” and struck out “and” at end, in par. (5), inserted “it will” before “develop” and substituted a semicolon for period at end, redesignated par. (4), relating to consistency of activities undertaken with assistance under this part, as (6) and substituted “; and” for period at end, and added par. (7).

Subsec. (d). Pub. L. 102–550, §1402(c), added subsec. (d). Subsec. (e). Pub. L. 102–550, §1402(d), added subsec. (e). 1990—Subsec. (a)(1). Pub. L. 101–625, §832(e)(1)(A), substituted “Except as provided in paragraph (2), each” for “Each”.

Subsec. (a)(2), (3). Pub. L. 101–625, §832(e)(1)(B), (C), added par. (2) and redesignated former par. (2) as (3).

Subsec. (c)(2), (3). Pub. L. 101–625, §832(e)(2)(A), (B), (h)(1), (2), amended subsec. (c) identically, striking “and” at end of par. (2) and substituting “; and” for period at end of par. (3).

Subsec. (c)(4). Pub. L. 101–625, §832(h)(3), added (after par. (5)) par. (4) relating to consistency of activities undertaken with assistance under this part.

Pub. L. 101–625, §832(e)(2)(C), added par. (4) relating to matching funds obtained by State recipients of assistance under this part.

Subsec. (c)(5). Pub. L. 101–625, §832(e)(2)(C), added par. (5).

1988—Subsec. (c)(1). Pub. L. 100–628 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “it will maintain any building for which assistance is used under this part as a shelter for homeless individuals for not less than a 3-year period or for not less than a 10-year period if such assistance is used for the major rehabilitation or conversion of such building;”.

#### EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–22 effective on the earlier of 18 months after May 20, 2009, or 3 months after publication of certain final regulations by Secretary of Housing and Urban Development, see section 1503 of Pub. L. 111–22, set out as a note under section 11302 of this title.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107

of Pub. L. 104–330, set out as an Effective Date note under section 4101 of Title 25, Indians.

Amendment by Pub. L. 104–330 applicable with respect to amounts made available for assistance under this subchapter for fiscal year 1998 and fiscal years thereafter, see section 506(c) of Pub. L. 104–330, set out as a note under section 11371 of this title.

### § 11376. Administrative provisions

#### (a) Regulations

Not later than 60 days after July 22, 1987, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this part. Such requirements shall be subject to section 553 of title 5. The Secretary shall issue requirements based on the initial notice before the expiration of the 12-month period following July 22, 1987. Prior to the issuance of such requirements in final form, the requirements established by the Secretary implementing the provisions of the emergency shelter grants program under the provisions made effective by section 101(g) of Public Law 99–500 or Public Law 99–591 shall govern the emergency shelter grants program under this part.

#### (b) Initial allocation of assistance

Not later than the expiration of the 60-day period following the date of enactment of a law providing appropriations to carry out this part, the Secretary shall notify each State, metropolitan city, and urban county that is to receive a direct grant of its allocation of assistance under this part. Such assistance shall be allocated and may be used notwithstanding any failure of the Secretary to issue requirements under subsection (a) of this section.

#### (c) Minimum standards of habitability

The Secretary shall prescribe such minimum standards of habitability as the Secretary determines to be appropriate to ensure that emergency shelters assisted under this section are environments that provide appropriate privacy, safety, and sanitary and other health-related conditions for homeless persons and families. Grantees are authorized to establish standards of habitability in addition to those prescribed by the Secretary.

(Pub. L. 100–77, title IV, §416, July 22, 1987, 101 Stat. 498; Pub. L. 101–625, title VIII, §832(f)(7), (g), Nov. 28, 1990, 104 Stat. 4361; Pub. L. 104–330, title V, §506(a)(6), Oct. 26, 1996, 110 Stat. 4044; Pub. L. 111–22, div. B, title II, §1201(3), May 20, 2009, 123 Stat. 1678.)

#### RENUMBERING OF SECTION

*Pub. L. 111–22, div. B, title II, §1201(3), title V, §1503, May 20, 2009, 123 Stat. 1678, 1702, provided that, effective on the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111–22, section 416 of Pub. L. 100–77, which is classified to this section, is renumbered as section 417 of Pub. L. 100–77.*

#### REFERENCES IN TEXT

The emergency shelter grants program under the provisions made effective by section 101(g) of Public Law

99-500 or Public Law 99-591, referred to in subsec. (a), means the emergency shelter grants program authorized by title V of H.R. 5313 [Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1987], as incorporated by reference by section 101(g) of Pub. L. 99-500 and 99-591, and enacted into law by section 106 of Pub. L. 100-202, which is set out as a note under section 11361 of this title.

#### AMENDMENTS

1996—Subsec. (b). Pub. L. 104-330 struck out “Indian tribe,” after “State.”.

1990—Subsec. (b). Pub. L. 101-625, § 832(f)(7), inserted “Indian tribe,” after “State.”.

Subsec. (c). Pub. L. 101-625, § 832(g), added subsec. (c).

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104-330, set out as an Effective Date note under section 4101 of Title 25, Indians.

Amendment by Pub. L. 104-330 applicable with respect to amounts made available for assistance under this subchapter for fiscal year 1998 and fiscal years thereafter, see section 506(c) of Pub. L. 104-330, set out as a note under section 11371 of this title.

### § 11377. Authorization of appropriations

There are authorized to be appropriated to carry out this part \$138,000,000 for fiscal year 1993 and \$143,796,000 for fiscal year 1994.

(Pub. L. 100-77, title IV, § 417, July 22, 1987, 101 Stat. 498; Pub. L. 100-628, title IV, § 425, Nov. 7, 1988, 102 Stat. 3232; Pub. L. 101-625, title VIII, § 832(a), Nov. 28, 1990, 104 Stat. 4359; Pub. L. 102-550, title XIV, § 1402(a), Oct. 28, 1992, 106 Stat. 4012.)

#### REPEAL OF SECTION

*Pub. L. 111-22, div. B, title II, § 1201(2), title V, § 1503, May 20, 2009, 123 Stat. 1678, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is repealed.*

#### AMENDMENTS

1992—Pub. L. 102-550 amended section generally. Prior to amendment, section read as follows: “There are authorized to be appropriated to carry out this part \$125,000,000 for fiscal year 1991 and \$138,000,000 for fiscal year 1992.”

1990—Pub. L. 101-625, which directed the general amendment of the “first sentence” of this section, was executed by making the substitution for the only sentence of this section which read: “There are authorized to be appropriated to carry out this part \$120,000,000 for fiscal year 1989 and \$125,000,000 for fiscal year 1990.”

1988—Pub. L. 100-628 amended section generally. Prior to amendment, section read as follows: “In addition to other amounts authorized by law, there are authorized to be appropriated for the emergency shelter grants program \$100,000,000 for fiscal year 1987 and \$120,000,000 for fiscal year 1988.”

### § 11378. Administrative costs

A recipient may use up to 5 percent of any annual grant received under this part for administrative purposes. A recipient State shall share the amount available for administrative pur-

poses pursuant to the preceding sentence with local governments funded by the State.

(Pub. L. 100-77, title IV, § 418, as added Pub. L. 101-625, title VIII, § 832(b)(1), Nov. 28, 1990, 104 Stat. 4359; amended Pub. L. 111-22, div. B, title II, § 1204, May 20, 2009, 123 Stat. 1680.)

#### AMENDMENT OF SECTION

*Pub. L. 111-22, div. B, title II, § 1204, title V, § 1503, May 20, 2009, 123 Stat. 1680, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is amended by substituting “7.5 percent” for “5 percent”.*

#### EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-22 effective on the earlier of 18 months after May 20, 2009, or 3 months after publication of certain final regulations by Secretary of Housing and Urban Development, see section 1503 of Pub. L. 111-22, set out as a note under section 11302 of this title.

### PART C—SUPPORTIVE HOUSING PROGRAM

#### AMENDMENT OF PART

*Pub. L. 111-22, div. B, title III, § 1301(1), title V, § 1503, May 20, 2009, 123 Stat. 1680, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, the part heading is amended by substituting “Continuum of Care Program” for “Supportive Housing Program”.*

### § 11381. Purpose

The purpose of the program under this part is to promote the development of supportive housing and supportive services, including innovative approaches to assist homeless persons in the transition from homelessness, and to promote the provision of supportive housing to homeless persons to enable them to live as independently as possible.

(Pub. L. 100-77, title IV, § 421, as added Pub. L. 102-550, title XIV, § 1403(a), Oct. 28, 1992, 106 Stat. 4013.)

#### REPEAL OF SECTION AND ENACTMENT OF NEW SECTION

*Pub. L. 111-22, div. B, title III, § 1301(2), title V, § 1503, May 20, 2009, 123 Stat. 1680, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is repealed and a new section 11381 is enacted to read as follows:*

#### § 11381. Purposes

*The purposes of this part are—*

(1) to promote community-wide commitment to the goal of ending homelessness;

(2) to provide funding for efforts by nonprofit providers and State and local governments to quickly rehouse homeless individuals and families while minimizing the trauma and dislocation caused to individuals, families, and communities by homelessness;

(3) to promote access to, and effective utilization of, mainstream programs described in section 11313(a)(7) of this title and programs funded with State or local resources; and

(4) to optimize self-sufficiency among individuals and families experiencing homelessness.

#### PRIOR PROVISIONS

A prior section 11381, Pub. L. 100-77, title IV, §421, July 22, 1987, 101 Stat. 498, related to establishment of a supportive housing demonstration program, prior to repeal by Pub. L. 102-550, title XIV, §1403(a), Oct. 28, 1992, 106 Stat. 4013.

#### TRANSITIONAL PROVISION

Section 1403(b) of Pub. L. 102-550, as amended by Pub. L. 106-400, §2, Oct. 30, 2000, 114 Stat. 1675, provided that: "Notwithstanding the amendment made by subsection (a) [adding part C and repealing former parts C and D of this subchapter], before the date of the effectiveness of the regulations issued under section 427 of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11387] (as amended by subsection (a) of this section) the Secretary may make grants under the provisions of subtitles C and D of [title IV of] the McKinney-Vento Homeless Assistance Act [former parts C and D of this subchapter], as in effect immediately before the enactment of this Act [Oct. 28, 1992]. Any grants made before such effective date shall be subject to the provisions of such subtitles."

#### DEMONSTRATION PROJECTS TO REDUCE NUMBER OF HOMELESS FAMILIES IN WELFARE HOTELS

Pub. L. 100-628, title IX, §903, Nov. 7, 1988, 102 Stat. 3258, as amended by Pub. L. 104-193, title I, §110(g), Aug. 22, 1996, 110 Stat. 2171, authorized Secretary of Health and Human Services to carry out 2 or 3 demonstration projects to provide housing in transitional facilities for homeless families who are recipients of assistance under a State program funded by part A of subchapter IV of chapter 7 of this title and who reside in commercial or similar transient facilities and authorized appropriations of not more than \$20,000,000 for the grants for fiscal year 1990.

### § 11382. Definitions

For purposes of this part:

(1) The term "applicant" means a State, metropolitan city, urban county, governmental entity, private nonprofit organization, or community mental health association that is a public nonprofit organization, that is eligible to receive assistance under this part and submits an application under section 11386(a) of this title.

(2) The term "disability" means—

(A) a disability as defined in section 423 of this title,

(B) to be determined to have, pursuant to regulations issued by the Secretary, a physical, mental, or emotional impairment which (i) is expected to be of long-continued and indefinite duration, (ii) substantially impedes an individual's ability to live independently, and (iii) of such a nature that such ability could be improved by more suitable housing conditions,

(C) a developmental disability as defined in section 15002 of this title, or

(D) the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agency for acquired immunodeficiency syndrome.

Subparagraph (D) shall not be construed to limit eligibility under subparagraphs (A) through (C) or the provisions referred to in subparagraphs (A) through (C).

(3) Repealed. Pub. L. 104-330, title V, §506(a)(7)(B), Oct. 26, 1996, 110 Stat. 4044.

(4) The term "metropolitan city" has the meaning given the term in section 5302 of this title.

(5) The term "operating costs" means expenses incurred by a recipient operating supportive housing under this part with respect to—

(A) the administration, maintenance, repair, and security of such housing;

(B) utilities, fuel, furnishings, and equipment for such housing; and

(C) the conducting of the assessment under section 11386(c)(2) of this title.

(6) The term "outpatient health services" means outpatient health care, outpatient mental health services, outpatient substance abuse services, and case management.

(7) The term "private nonprofit organization" means an organization—

(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

(B) that has a voluntary board;

(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

(D) that practices nondiscrimination in the provision of assistance.

(8) The term "project" means a structure or structures (or a portion of such structure or structures) that is acquired, rehabilitated, constructed, or leased with assistance provided under this part or with respect to which the Secretary provides technical assistance or annual payments for operating costs under this part, or supportive services.

(9) The term "recipient" means any governmental or nonprofit entity that receives assistance under this part.

(10) The term "Secretary" means the Secretary of Housing and Urban Development.

(11) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and Palau.

(12) The term "supportive housing" means a project that meets the requirements of section 11384 of this title.

(13) The term "supportive services" means services under section 11385 of this title.

(14) The term "urban county" has the meaning given the term in section 5302 of this title.

(Pub. L. 100-77, title IV, §422, as added Pub. L. 102-550, title XIV, §1403(a), Oct. 28, 1992, 106 Stat. 4014; amended Pub. L. 104-330, title V, §506(a)(7),

Oct. 26, 1996, 110 Stat. 4044; Pub. L. 106–402, title IV, § 401(b)(14), Oct. 30, 2000, 114 Stat. 1740.)

REPEAL OF SECTION AND ENACTMENT OF NEW SECTION

*Pub. L. 111–22, div. B, title III, § 1301(2), title V, § 1503, May 20, 2009, 123 Stat. 1681, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111–22, this section is repealed and a new section 11382 is enacted to read as follows:*

§ 11382. Continuum of care applications and grants

(a) Projects

*The Secretary shall award grants, on a competitive basis, and using the selection criteria described in section 11386a of this title, to carry out eligible activities under this part for projects that meet the program requirements under section 11386 of this title, either by directly awarding funds to project sponsors or by awarding funds to unified funding agencies.*

(b) Notification of funding availability

*The Secretary shall release a notification of funding availability for grants awarded under this part for a fiscal year not later than 3 months after the date of the enactment of the appropriate Act making appropriations for the Department of Housing and Urban Development for such fiscal year.*

(c) Applications

(1) Submission to the Secretary

*To be eligible to receive a grant under subsection (a), a project sponsor or unified funding agency in a geographic area shall submit an application to the Secretary at such time and in such manner as the Secretary may require, and containing such information as the Secretary determines necessary—*

*(A) to determine compliance with the program requirements and selection criteria under this part; and*

*(B) to establish priorities for funding projects in the geographic area.*

(2) Announcement of awards

(A) In general

*Except as provided in subparagraph (B), the Secretary shall announce, within 5 months after the last date for the submission of applications described in this subsection for a fiscal year, the grants conditionally awarded under subsection (a) for that fiscal year.*

(B) Transition

*For a period of up to 2 years beginning after the effective date under section 1503 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, the Secretary shall announce, within 6 months after the last date for the submission of applications described in this subsection for a fiscal year, the grants conditionally awarded under subsection (a) for that fiscal year.*

(d) Obligation, distribution, and utilization of funds

(1) Requirements for obligation

(A) In general

*Not later than 9 months after the announcement referred to in subsection (c)(2), each recipient or project sponsor shall meet all requirements for the obligation of those funds, including site control, matching funds, and environmental review requirements, except as provided in subparagraphs (B) and (C).*

(B) Acquisition, rehabilitation, or construction

*Not later than 24 months after the announcement referred to in subsection (c)(2), each recipient or project sponsor seeking the obligation of funds for acquisition of housing, rehabilitation of housing, or construction of new housing for a grant announced under subsection (c)(2) shall meet all requirements for the obligation of those funds, including site control, matching funds, and environmental review requirements.*

(C) Extensions

*At the discretion of the Secretary, and in compelling circumstances, the Secretary may extend the date by which a recipient or project sponsor shall meet the requirements described in subparagraphs (A) and (B) if the Secretary determines that compliance with the requirements was delayed due to factors beyond the reasonable control of the recipient or project sponsor. Such factors may include difficulties in obtaining site control for a proposed project, completing the process of obtaining secure financing for the project, obtaining approvals from State or local governments, or completing the technical submission requirements for the project.*

(2) Obligation

*Not later than 45 days after a recipient or project sponsor meets the requirements described in paragraph (1), the Secretary shall obligate the funds for the grant involved.*

(3) Distribution

*A recipient that receives funds through such a grant—*

*(A) shall distribute the funds to project sponsors (in advance of expenditures by the project sponsors); and*

*(B) shall distribute the appropriate portion of the funds to a project sponsor not later than 45 days after receiving a request for such distribution from the project sponsor.*

(4) Expenditure of funds

*The Secretary may establish a date by which funds made available through a grant announced under subsection (c)(2) for a homeless assistance project shall be entirely expended by the recipient or project sponsors involved. The date established under this paragraph shall not occur before the expiration of the 24-month period beginning on the date that funds are obligated for activities described under paragraphs (1) or (2) of section 11383(a) of this title. The Secretary shall recapture the funds not expended by such date. The Secretary shall reallocate the funds for another homeless assistance and prevention project that meets the requirements of this part to be carried out, if possible and appropriate, in the same geographic area as the area served through the original grant.*

(e) *Renewal funding for unsuccessful applicants*

The Secretary may renew funding for a specific project previously funded under this part that the Secretary determines meets the purposes of this part, and was included as part of a total application that met the criteria of subsection (c), even if the application was not selected to receive grant assistance. The Secretary may renew the funding for a period of not more than 1 year, and under such conditions as the Secretary determines to be appropriate.

(f) *Considerations in determining renewal funding*

When providing renewal funding for leasing, operating costs, or rental assistance for permanent housing, the Secretary shall make adjustments proportional to increases in the fair market rents in the geographic area.

(g) *More than 1 application for a geographic area*

If more than 1 collaborative applicant applies for funds for a geographic area, the Secretary shall award funds to the collaborative applicant with the highest score based on the selection criteria set forth in section 11386a of this title.

(h) *Appeals*(1) *In general*

The Secretary shall establish a timely appeal procedure for grant amounts awarded or denied under this part pursuant to a collaborative application or solo application for funding.

(2) *Process*

The Secretary shall ensure that the procedure permits appeals submitted by entities carrying out homeless housing and services projects (including emergency shelters and homelessness prevention programs), and all other applicants under this part.

(i) *Solo applicants*

A solo applicant may submit an application to the Secretary for a grant under subsection (a) and be awarded such grant on the same basis as such grants are awarded to other applicants based on the criteria described in section 11386a of this title, but only if the Secretary determines that the solo applicant has attempted to participate in the continuum of care process but was not permitted to participate in a reasonable manner. The Secretary may award such grants directly to such applicants in a manner determined to be appropriate by the Secretary.

(j) *Flexibility to serve persons defined as homeless under other Federal laws*(1) *In general*

A collaborative applicant may use not more than 10 percent of funds awarded under this part (continuum of care funding) for any of the types of eligible activities specified in paragraphs (1) through (7) of section 11383(a) of this title to serve families with children and youth defined as homeless under other Federal statutes, or homeless families with children and youth defined as homeless under section 11302(a)(6) of this title, but only if the applicant demonstrates that the use of such funds is of an equal or greater priority or is equally or more cost effective in meeting the overall goals and objectives of the plan submitted under section 11386a(b)(1)(B) of this title, especially with respect to children and unaccompanied youth.

(2) *Limitations*

The 10 percent limitation under paragraph (1) shall not apply to collaborative applicants in which the rate of homelessness, as calculated in the most recent point in time count, is less than one-tenth of 1 percent of total population.

(3) *Treatment of certain populations*(A) *In general*

Notwithstanding section 11302(a) of this title and subject to subparagraph (B), funds awarded under this part may be used for eligible activities to serve unaccompanied youth and homeless families and children defined as homeless under section 11302(a)(6) of this title only pursuant to paragraph (1) of this subsection and such families and children shall not otherwise be considered as homeless for purposes of this part.

(B) *At risk of homelessness*

Subparagraph (A) may not be construed to prevent any unaccompanied youth and homeless families and children defined as homeless under section 11302(a)(6) of this title from qualifying for, and being treated for purposes of this part as, at risk of homelessness or from eligibility for any projects, activities, or services carried out using amounts provided under this part for which individuals or families that are at risk of homelessness are eligible.

## PRIOR PROVISIONS

A prior section 11382, Pub. L. 100-77, title IV, § 422, July 22, 1987, 101 Stat. 499; Pub. L. 100-242, title V, § 570(i)(1), Feb. 5, 1988, 101 Stat. 1950; Pub. L. 100-628, title IV, §§ 441(a), 442(a), (b)(1), 443, 444, Nov. 7, 1988, 102 Stat. 3232, 3233; Pub. L. 101-625, title VIII, § 833(b), (k)(1), Nov. 28, 1990, 104 Stat. 4362, 4364, defined terms for purposes of the supportive housing demonstration program, prior to repeal by Pub. L. 102-550, § 1403(a).

## AMENDMENTS

2000—Par. (2)(C). Pub. L. 106-402, which directed amendment of section 422(2)(C) of the Stewart B. McKinney Homeless Assistance Act by substituting “as defined in section 15002 of this title, or” for “as defined in section 6001 of this title, or”, was executed to par. (2)(C) of this section, which is section 422 of the McKinney-Vento Homeless Assistance Act, to reflect the probable intent of Congress.

1996—Par. (1). Pub. L. 104-330, § 506(a)(7)(A), struck out “Indian tribe,” after “a State”.

Par. (3). Pub. L. 104-330, § 506(a)(7)(B), struck out par. (3) which read as follows: “The term ‘Indian tribe’ has the meaning given the term in section 5302(a) of this title.”

## EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104-330, set out as an Effective Date note under section 4101 of Title 25, Indians.

Amendment by Pub. L. 104-330 applicable with respect to amounts made available for assistance under this subchapter for fiscal year 1998 and fiscal years thereafter, see section 506(c) of Pub. L. 104-330, set out as a note under section 11371 of this title.

**§ 11383. Eligible activities****(a) In general**

The Secretary may provide any project with one or more of the following types of assistance under this part:



**(1) Acquisition and rehabilitation**

A grant, in an amount not to exceed \$200,000, for the acquisition, rehabilitation, or acquisition and rehabilitation, of an existing structure (including a small commercial property or office space) to provide supportive housing other than emergency shelter or to provide supportive services; except that the Secretary may increase the dollar limitation under this sentence to not more than \$400,000 for areas that the Secretary finds have high acquisition and rehabilitation costs. The repayment of any outstanding debt owed on a loan made to purchase an existing structure shall be considered to be a cost of acquisition eligible for a grant under this paragraph if the structure was not used as supportive housing, or to provide supportive services, before the receipt of assistance.

**(2) New construction**

A grant, in an amount not to exceed \$400,000, for new construction of a structure to provide supportive housing.

**(3) Leasing**

A grant for leasing of an existing structure or structures, or portions thereof, to provide supportive housing or supportive services during the period covered by the application. Grant recipients may reapply for such assistance as needed to continue the use of such structure for purposes of this part.

**(4) Operating costs**

Annual payments for operating costs of housing assisted under this part, not to exceed 75 percent of the annual operating costs of such housing. Grant recipients may reapply for such assistance as needed to continue the use of the housing for purposes of this part.

**(5) Supportive services**

A grant for costs of supportive services provided to homeless individuals. Any recipient, including program recipients under this subchapter before October 28, 1992, may reapply for such assistance or for the renewal of such assistance to continue services funded under prior grants or to provide other services.

**(6) Technical assistance**

Technical assistance in carrying out the purposes of this part.

**(7) Management information system**

A grant for the costs of implementing and operating management information systems for purposes of collecting unduplicated counts of homeless people and analyzing patterns of use of assistance funded under this chapter.

**(8) Confidentiality****(A) Victim service providers**

In the course of awarding grants or implementing programs under this section, the Secretary shall instruct any victim service provider that is a recipient or subgrantee not to disclose for purposes of a Homeless Management Information System personally identifying information about any client. The Secretary may, after public notice and comment, require or ask such recipients and

subgrantees to disclose for purposes of a Homeless Management Information System non-personally identifying data that has been de-identified, encrypted, or otherwise encoded. Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this paragraph for victims of domestic violence, dating violence, sexual assault, or stalking.

**(B) Definitions****(i) Personally identifying information or personal information**

The term “personally identifying information” or “personal information” means individually identifying information for or about an individual including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, including—

- (I) a first and last name;
- (II) a home or other physical address;
- (III) contact information (including a postal, e-mail or Internet protocol address, or telephone or facsimile number);
- (IV) a social security number; and
- (V) any other information, including date of birth, racial or ethnic background, or religious affiliation, that, in combination with any other non-personally identifying information would serve to identify any individual.

**(ii) Victim service provider**

The term “victim service provider” means a nonprofit, nongovernmental organization including rape crisis centers, battered women’s shelters, domestic violence transitional housing programs, and other programs whose primary mission is to provide services to victims of domestic violence, dating violence, sexual assault, or stalking.

**(b) Use restrictions****(1) Acquisition, rehabilitation, and new construction**

Projects assisted under subsection (a)(1) or (2) of this section shall be operated for not less than 20 years for the purpose specified in the application.

**(2) Other assistance**

Projects assisted under subsection (a)(3), (4), (5), or (6) of this section (but not under subsection (a)(1) or (2) of this section) shall be operated for the purposes specified in the application for the duration of the period covered by the grant.

**(3) Conversion**

If the Secretary determines that a project is no longer needed for use as supportive housing and approves the use of the project for the direct benefit of low-income persons pursuant to a request for such use by the recipient operating the project, the Secretary may authorize the recipient to convert the project to such use.

**(c) Repayment of assistance and prevention of undue benefits**

**(1) Repayment**

The Secretary shall require recipients to repay 100 percent of any assistance received under subsection (a)(1) or (2) of this section if the project ceases to be used as supportive housing within 10 years after the project is placed in service. If such project is used as supportive housing for more than 10 years, the Secretary shall reduce the percentage of the amount required to be repaid by 10 percentage points for each year in excess of 10 that the project is used as supportive housing.

**(2) Prevention of undue benefits**

Except as provided in paragraph (3), upon any sale or other disposition of a project assisted under subsection (a)(1) or (2) of this section occurring before the expiration of the 20-year period beginning on the date that the project is placed in service, the recipient shall comply with such terms and conditions as the Secretary may prescribe to prevent the recipient from unduly benefiting from such sale or disposition.

**(3) Exception**

A recipient shall not be required to comply with the terms and conditions prescribed under paragraphs (1) and (2) if the sale or disposition of the project results in the use of the project for the direct benefit of very low-income persons or if all of the proceeds are used to provide supportive housing meeting the requirements of this part.

(Pub. L. 100-77, title IV, § 423, as added Pub. L. 102-550, title XIV, § 1403(a), Oct. 28, 1992, 106 Stat. 4015; amended Pub. L. 106-377, § 1(a)(1) [title II, § 226], Oct. 27, 2000, 114 Stat. 1441, 1441A-30; Pub. L. 109-162, title VI, § 605(1), Jan. 5, 2006, 119 Stat. 3041; Pub. L. 109-271, § 5(b), Aug. 12, 2006, 120 Stat. 759.)

**REPEAL OF SECTION AND ENACTMENT OF NEW SECTION**

*Pub. L. 111-22, div. B, title III, § 1302, title V, § 1503, May 20, 2009, 123 Stat. 1684, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is repealed and a new section 11383 is enacted to read as follows:*

**§ 11383. Eligible activities**

**(a) In general**

*Grants awarded under section 11382 of this title to qualified applicants shall be used to carry out projects that serve homeless individuals or families that consist of one or more of the following eligible activities:*

*(1) Construction of new housing units to provide transitional or permanent housing.*

*(2) Acquisition or rehabilitation of a structure to provide transitional or permanent housing, other than emergency shelter, or to provide supportive services.*

*(3) Leasing of property, or portions of property, not owned by the recipient or project sponsor involved, for use in providing transitional or permanent housing, or providing supportive services.*

*(4) Provision of rental assistance to provide transitional or permanent housing to eligible persons. The rental assistance may include tenant-based, project-based, or sponsor-based rental assistance. Project-based rental assistance, sponsor-based rental assistance, and operating cost assistance contracts carried out by project sponsors receiving grants under this section may, at the discretion of the applicant and the project sponsor, have an initial term of 15 years, with assistance for the first 5 years paid with funds authorized for appropriation under this chapter, and assistance for the remainder of the term treated as a renewal of an expiring contract as provided in section 11386c of this title. Project-based rental assistance may include rental assistance to preserve existing permanent supportive housing for homeless individuals and families.*

*(5) Payment of operating costs for housing units assisted under this part or for the preservation of housing that will serve homeless individuals and families and for which another form of assistance is expiring or otherwise no longer available.*

*(6) Supportive services for individuals and families who are currently homeless, who have been homeless in the prior six months but are currently residing in permanent housing, or who were previously homeless and are currently residing in permanent supportive housing.*

*(7) Provision of rehousing services, including housing search, mediation or outreach to property owners, credit repair, providing security or utility deposits, rental assistance for a final month at a location, assistance with moving costs, or other activities that—*

*(A) are effective at moving homeless individuals and families immediately into housing; or*

*(B) may benefit individuals and families who in the prior 6 months have been homeless, but are currently residing in permanent housing.*

*(8) In the case of a collaborative applicant that is a legal entity, performance of the duties described under section 11360a(f)(3) of this title.*

*(9) Operation of, participation in, and ensuring consistent participation by project sponsors in, a community-wide homeless management information system.*

*(10) In the case of a collaborative applicant that is a legal entity, payment of administrative costs related to meeting the requirements described in paragraphs (1) and (2) of section 11360a(f) of this title, for which the collaborative applicant may use not more than 3 percent of the total funds made available in the geographic area under this part for such costs.*

*(11) In the case of a collaborative applicant that is a unified funding agency under section 11360a(g) of this title, payment of administrative costs related to meeting the requirements of that section, for which the unified funding agency may use not more than 3 percent of the total funds made available in the geographic area under this part for such costs, in addition to funds used under paragraph (10).*

*(12) Payment of administrative costs to project sponsors, for which each project sponsor may use not more than 10 percent of the total funds made*

available to that project sponsor through this part for such costs.

(b) *Minimum grant terms*

The Secretary may impose minimum grant terms of up to 5 years for new projects providing permanent housing.

(c) *Use restrictions*

(1) *Acquisition, rehabilitation, and new construction*

A project that consists of activities described in paragraph (1) or (2) of subsection (a) shall be operated for the purpose specified in the application submitted for the project under section 11382 of this title for not less than 15 years.

(2) *Other activities*

A project that consists of activities described in any of paragraphs (3) through (12) of subsection (a) shall be operated for the purpose specified in the application submitted for the project under section 11382 of this title for the duration of the grant period involved.

(3) *Conversion*

If the recipient or project sponsor carrying out a project that provides transitional or permanent housing submits a request to the Secretary to carry out instead a project for the direct benefit of low-income persons, and the Secretary determines that the initial project is no longer needed to provide transitional or permanent housing, the Secretary may approve the project described in the request and authorize the recipient or project sponsor to carry out that project.

(d) *Repayment of assistance and prevention of undue benefits*

(1) *Repayment*

If a recipient or project sponsor receives assistance under section 11382 of this title to carry out a project that consists of activities described in paragraph (1) or (2) of subsection (a) and the project ceases to provide transitional or permanent housing—

(A) earlier than 10 years after operation of the project begins, the Secretary shall require the recipient or project sponsor to repay 100 percent of the assistance; or

(B) not earlier than 10 years, but earlier than 15 years, after operation of the project begins, the Secretary shall require the recipient or project sponsor to repay 20 percent of the assistance for each of the years in the 15-year period for which the project fails to provide that housing.

(2) *Prevention of undue benefits*

Except as provided in paragraph (3), if any property is used for a project that receives assistance under subsection (a) and consists of activities described in paragraph (1) or (2) of subsection (a), and the sale or other disposition of the property occurs before the expiration of the 15-year period beginning on the date that operation of the project begins, the recipient or project sponsor who received the assistance shall comply with such terms and conditions as the Secretary may prescribe to prevent the recipient or project sponsor from unduly benefitting from such sale or disposition.

(3) *Exception*

A recipient or project sponsor shall not be required to make the repayments, and comply with the terms and conditions, required under paragraph (1) or (2) if—

(A) the sale or disposition of the property used for the project results in the use of the property for the direct benefit of very low-income persons;

(B) all of the proceeds of the sale or disposition are used to provide transitional or permanent housing meeting the requirements of this part;

(C) project-based rental assistance or operating cost assistance from any Federal program or an equivalent State or local program is no longer made available and the project is meeting applicable performance standards, provided that the portion of the project that had benefitted from such assistance continues to meet the tenant income and rent restrictions for low-income units under section 42(g) of title 26; or

(D) there are no individuals and families in the geographic area who are homeless, in which case the project may serve individuals and families at risk of homelessness.

(e) *Staff training*

The Secretary may allow reasonable costs associated with staff training to be included as part of the activities described in subsection (a).

(f) *Eligibility for permanent housing*

Any project that receives assistance under subsection (a) and that provides project-based or sponsor-based permanent housing for homeless individuals or families with a disability, including projects that meet the requirements of subsection (a) and subsection (d)(2)(A) of section 11386b of this title may also serve individuals who had previously met the requirements for such project prior to moving into a different permanent housing project.

(g) *Administration of rental assistance*

Provision of permanent housing rental assistance shall be administered by a State, unit of general local government, or public housing agency.

#### REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(7), was in the original “this Act”, meaning Pub. L. 100-77, July 22, 1987, 101 Stat. 482, known as the McKinney-Vento Homeless Assistance Act. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of this title and Tables.

#### PRIOR PROVISIONS

A prior section 11383, Pub. L. 100-77, title IV, § 423, July 22, 1987, 101 Stat. 501; Pub. L. 100-628, title IV, §§ 441(b), (c), 445(a), 446-448(a), 449, Nov. 7, 1988, 102 Stat. 3233, 3234; Pub. L. 101-625, title VIII, § 833(c)-(e), (g), Nov. 28, 1990, 104 Stat. 4362, 4363, outlined types of assistance provided under the supportive housing demonstration program, prior to repeal by Pub. L. 102-550, § 1403(a).

#### AMENDMENTS

2006—Subsec. (a)(8). Pub. L. 109-162, which directed the addition of par. (8) to subsec. (a) of section 423 of the Stewart B. McKinney Homeless Assistance Act, was executed by adding par. (8) to subsec. (a) of this section, which is section 423 of the McKinney-Vento Homeless Assistance Act, to reflect the probable intent of Congress.

Subsec. (a)(8)(A). Pub. L. 109-271, §5(b)(1), which directed amendment of section 423(a)(8) of the Stewart B. McKinney Homeless Assistance Act by substituting “section” for “subsection”, was executed to subsec. (a)(8) of this section, which is section 423 of the McKinney-Vento Homeless Assistance Act, to reflect the probable intent of Congress.

Subsec. (a)(8)(B)(ii). Pub. L. 109-271, §5(b)(2), which directed amendment of section 423(a)(8)(B)(ii) of the Stewart B. McKinney Homeless Assistance Act by striking out “or ‘victim service providers’” after “‘victim service provider’”, was executed to subsec. (a)(8)(B)(ii) of this section, which is section 423 of the McKinney-Vento Homeless Assistance Act, to reflect the probable intent of Congress.

2000—Subsec. (a)(7). Pub. L. 106-377 added par. (7).

## § 11384. Supportive housing

### (a) In general

Housing providing supportive services for homeless individuals shall be considered supportive housing for purposes of this part if—

- (1) the housing is safe and sanitary and meets any applicable State and local housing codes and licensing requirements in the jurisdiction in which the housing is located; and
- (2) the housing—
  - (A) is transitional housing;
  - (B) is permanent housing for homeless persons with disabilities; or
  - (C) is, or is part of, a particularly innovative project for, or alternative methods of, meeting the immediate and long-term needs of homeless individuals and families.

### (b) Transitional housing

For purposes of this section, the term “transitional housing” means housing, the purpose of which is to facilitate the movement of homeless individuals and families to permanent housing within 24 months or such longer period as the Secretary determines necessary. The Secretary may deny assistance for housing based on a violation of this subsection only if the Secretary determines that a substantial number of homeless individuals or families have remained in the housing longer than such period.

### (c) Permanent housing for homeless persons with disabilities

For purposes of this section, the term “permanent housing for homeless persons with disabilities” means community-based housing for homeless persons with disabilities that provides long-term housing and supportive services for not more than—

- (1) 8 such persons in a single structure or contiguous structures;
- (2) 16 such persons, but only if not more than 20 percent of the units in a structure are designated for such persons; or
- (3) more than 16 persons if the applicant demonstrates that local market conditions dictate the development of a large project and such development will achieve the neighborhood integration objectives of the program within the context of the affected community.

### (d) Single room occupancy dwellings

A project may provide supportive housing or supportive services in dwelling units that do not contain bathrooms or kitchen facilities and are appropriate for use as supportive housing or in

projects containing some or all such dwelling units.

(Pub. L. 100-77, title IV, § 424, as added Pub. L. 102-550, title XIV, § 1403(a), Oct. 28, 1992, 106 Stat. 4016.)

## REPEAL OF SECTION AND ENACTMENT OF NEW SECTION

*Pub. L. 111-22, div. B, title III, § 1303, title V, § 1503, May 20, 2009, 123 Stat. 1687, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is repealed and a new section 11384 is enacted to read as follows:*

§ 11384. Incentives for high-performing communities

(a) Designation as a high-performing community

### (1) In general

*The Secretary shall designate, on an annual basis, which collaborative applicants represent high-performing communities.*

### (2) Consideration

*In determining whether to designate a collaborative applicant as a high-performing community under paragraph (1), the Secretary shall establish criteria to ensure that the requirements described under paragraphs (1)(B) and (2)(B) of subsection (d) are measured by comparing homeless individuals and families under similar circumstances, in order to encourage projects in the geographic area to serve homeless individuals and families with more severe barriers to housing stability.*

### (3) 2-year phase in

*In each of the first 2 years after the effective date under section 1503 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, the Secretary shall designate not more than 10 collaborative applicants as high-performing communities.*

### (4) Excess of qualified applicants

*If, during the 2-year period described under paragraph (2), more than 10 collaborative applicants could qualify to be designated as high-performing communities, the Secretary shall designate the 10 that have, in the discretion of the Secretary, the best performance based on the criteria described under subsection (d).*

### (5) Time limit on designation

*The designation of any collaborative applicant as a high-performing community under this subsection shall be effective only for the year in which such designation is made. The Secretary, on an annual basis, may renew any such designation.*

### (b) Application

### (1) In general

*A collaborative applicant seeking designation as a high-performing community under subsection (a) shall submit an application to the Secretary at such time, and in such manner as the Secretary may require.*

(2) *Content of application*

In any application submitted under paragraph (1), a collaborative applicant shall include in such application—

(A) a report showing how any money received under this part in the preceding year was expended; and

(B) information that such applicant can meet the requirements described under subsection (d).

(3) *Publication of application*

The Secretary shall—

(A) publish any report or information submitted in an application under this section in the geographic area represented by the collaborative applicant; and

(B) seek comments from the public as to whether the collaborative applicant seeking designation as a high-performing community meets the requirements described under subsection (d).

(c) *Use of funds*

Funds awarded under section 11382(a) of this title to a project sponsor who is located in a high-performing community may be used—

(1) for any of the eligible activities described in section 11383 of this title; or

(2) for any of the eligible activities described in paragraphs (4) and (5) of section 11374(a) of this title.

(d) *Definition of high-performing community*

For purposes of this section, the term “high-performing community” means a geographic area that demonstrates through reliable data that all five of the following requirements are met for that geographic area:

(1) *Term of homelessness*

The mean length of episodes of homelessness for that geographic area—

(A) is less than 20 days; or

(B) for individuals and families in similar circumstances in the preceding year was at least 10 percent less than in the year before.

(2) *Families leaving homelessness*

Of individuals and families—

(A) who leave homelessness, fewer than 5 percent of such individuals and families become homeless again at any time within the next 2 years; or

(B) in similar circumstances who leave homelessness, the percentage of such individuals and families who become homeless again within the next 2 years has decreased by at least 20 percent from the preceding year.

(3) *Community action*

The communities that compose the geographic area have—

(A) actively encouraged homeless individuals and families to participate in homeless assistance services available in that geographic area; and

(B) included each homeless individual or family who sought homeless assistance services in the data system used by that community for determining compliance with this subsection.

(4) *Effectiveness of previous activities*

If recipients in the geographic area have used funding awarded under section 11382(a) of this

title for eligible activities described under section 11374(a) of this title in previous years based on the authority granted under subsection (c), that such activities were effective at reducing the number of individuals and families who became homeless in that community.

(5) *Flexibility to serve persons defined as homeless under other Federal laws*

With respect to collaborative applicants exercising the authority under section 11382(j) of this title to serve homeless families with children and youth defined as homeless under other Federal statutes, effectiveness in achieving the goals and outcomes identified in subsection 11386a(b)(1)(F) of this title according to such standards as the Secretary shall promulgate.

(e) *Cooperation among entities*

A collaborative applicant designated as a high-performing community under this section shall cooperate with the Secretary in distributing information about successful efforts within the geographic area represented by the collaborative applicant to reduce homelessness.

## PRIOR PROVISIONS

A prior section 11384, Pub. L. 100-77, title IV, § 424, July 22, 1987, 101 Stat. 501; Pub. L. 100-628, title IV, §§ 442(b)(2), 448(b), 450(a)(1), (b), 451, Nov. 7, 1988, 102 Stat. 3233-3235; Pub. L. 101-625, title VIII, § 833(f), (h)-(j), (k)(2), Nov. 28, 1990, 104 Stat. 4363-4365, provided for applications, selection criteria, and other program requirements for assistance under the supportive housing demonstration program, prior to repeal by Pub. L. 102-550, § 1403(a).

**§ 11385. Supportive services****(a) In general**

To the extent practicable, each project shall provide supportive services for residents of the project and homeless persons using the project, which may be designed by the recipient or participants.

**(b) Requirements**

Supportive services provided in connection with a project shall address the special needs of individuals (such as homeless persons with disabilities and homeless families with children) intended to be served by a project.

**(c) Services**

Supportive services may include such activities as (A) establishing and operating a child care services program for homeless families, (B) establishing and operating an employment assistance program, (C) providing outpatient health services, food, and case management, (D) providing assistance in obtaining permanent housing, employment counseling, and nutritional counseling, (E) providing security arrangements necessary for the protection of residents of supportive housing and for homeless persons using the housing or project, (F) providing assistance in obtaining other Federal, State, and local assistance available for such residents (including mental health benefits, employment counseling, and medical assistance, but not including major medical equipment), and (G) providing other appropriate services.

**(d) Provision of services**

Services provided pursuant to this section may be provided directly by the recipient or by

contract with other public or private service providers. Such services may be provided to homeless individuals who do not reside in supportive housing.

**(e) Coordination with Secretary of Health and Human Services**

**(1) Approval**

Promptly upon receipt of any application for assistance under this part that includes the provision of outpatient health services, the Secretary of Housing and Urban Development shall consult with the Secretary of Health and Human Services with respect to the proposed outpatient health services. If, within 45 days of such consultation, the Secretary of Health and Human Services determines that the proposal for delivery of the outpatient health services does not meet guidelines for determining the appropriateness of such proposed services, the Secretary of Housing and Urban Development may require resubmission of the application, and the Secretary of Housing and Urban Development may not approve such portion of the application unless and until such portion has been resubmitted in a form that the Secretary of Health and Human Services determines meets such guidelines.

**(2) Guidelines**

The Secretary of Housing and Urban Development and the Secretary of Health and Human Services shall jointly establish guidelines for determining the appropriateness of proposed outpatient health services under this section. Such guidelines shall include any provisions necessary to enable the Secretary of Housing and Urban Development to meet the time limits under this part for the final selection of applications for assistance.

(Pub. L. 100-77, title IV, § 425, as added Pub. L. 102-550, title XIV, § 1403(a), Oct. 28, 1992, 106 Stat. 4017.)

**PRIOR PROVISIONS**

A prior section 11385, Pub. L. 100-77, title IV, § 425, July 22, 1987, 101 Stat. 503; Pub. L. 100-628, title IV, § 452, Nov. 7, 1988, 102 Stat. 3235; Pub. L. 101-625, title VIII, § 833(k)(3), Nov. 28, 1990, 104 Stat. 4365, required recipients of assistance under supportive housing demonstration program to obtain an equal amount of funding from non-Federal sources, prior to repeal by Pub. L. 102-550, § 1403(a).

**§ 11386. Program requirements**

**(a) Applications**

**(1) Form and procedure**

Applications for assistance under this part shall be submitted by applicants in the form and in accordance with the procedures established by the Secretary. The Secretary may not give preference or priority to any application on the basis that the application was submitted by any particular type of applicant entity.

**(2) Contents**

The Secretary shall require that applications contain at a minimum—

(A) a description of the proposed project, including the activities to be undertaken;

(B) a description of the size and characteristics of the population that would occupy the supportive housing assisted under this part;

(C) a description of the public and private resources that are expected to be made available for the project;

(D) in the case of projects assisted under section 11383(a)(1) or (2) of this title, assurances satisfactory to the Secretary that the project will be operated for not less than 20 years for the purpose specified in the application;

(E) in the case of projects assisted under this subchapter that do not receive assistance under such sections, annual assurances during the period specified in the application that the project will be operated for the purpose specified in the application for such period;

(F) a certification from the public official responsible for submitting the comprehensive housing affordability strategy under section 12705 of this title for the State or unit of general local government within which the project is located that the proposed project is consistent with the approved housing strategy of such State or unit of general local government; and

(G) a certification that the applicant will comply with the requirements of the Fair Housing Act [42 U.S.C. 3601 et seq.], title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], and the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], and will affirmatively further fair housing.

**(3) Site control**

The Secretary shall require that each application include reasonable assurances that the applicant will own or have control of a site for the proposed project not later than the expiration of the 12-month period beginning upon notification of an award for grant assistance, unless the application proposes providing supportive housing assisted under section 11383(a)(3) of this title or housing that will eventually be owned or controlled by the families and individuals served. An applicant may obtain ownership or control of a suitable site different from the site specified in the application. If any recipient fails to obtain ownership or control of the site within 12 months after notification of an award for grant assistance, the grant shall be recaptured and reallocated under this part.

**(b) Selection criteria**

The Secretary shall select applicants approved by the Secretary as to financial responsibility to receive assistance under this part by a national competition based on criteria established by the Secretary, which shall include—

(1) the ability of the applicant to develop and operate a project;

(2) the innovative quality of the proposal in providing a project;

(3) the need for the type of project proposed by the applicant in the area to be served;

(4) the extent to which the amount of assistance to be provided under this part will be

supplemented with resources from other public and private sources;

(5) the cost-effectiveness of the proposed project;

(6) the extent to which the applicant has demonstrated coordination with other Federal, State, local, private and other entities serving homeless persons in the planning and operation of the project, to the extent practicable; and

(7) such other factors as the Secretary determines to be appropriate to carry out this part in an effective and efficient manner.

**(c) Required agreements**

The Secretary may not provide assistance for any project under this part unless the applicant agrees—

(1) to operate the proposed project in accordance with the provisions of this part;

(2) to conduct an ongoing assessment of the supportive services required by homeless individuals served by the project and the availability of such services to such individuals;

(3) to provide such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of supportive services to the residents and users of the project;

(4) to monitor and report to the Secretary on the progress of the project;

(5) to develop and implement procedures to ensure (A) the confidentiality of records pertaining to any individual provided family violence prevention or treatment services through any project assisted under this part, and (B) that the address or location of any family violence shelter project assisted under this part will not be made public, except with written authorization of the person or persons responsible for the operation of such project;

(6) to the maximum extent practicable, to involve homeless individuals and families, through employment, volunteer services, or otherwise, in constructing, rehabilitating, maintaining, and operating the project assisted under this part and in providing supportive services for the project; and

(7) to comply with such other terms and conditions as the Secretary may establish to carry out this part in an effective and efficient manner.

**(d) Occupancy charge**

Each homeless individual or family residing in a project providing supportive housing may be required to pay an occupancy charge in an amount determined by the recipient providing the project, which may not exceed the amount determined under section 1437a(a) of this title. Occupancy charges paid may be reserved, in whole or in part, to assist residents in moving to permanent housing.

**(e) Matching funding**

Each recipient shall be required to supplement the amount of assistance provided under paragraphs (1) and (2) of section 11383(a) of this title with an equal amount of funds from sources other than this part.

**(f) Flood protection standards**

Flood protection standards applicable to housing acquired, rehabilitated, constructed, or as-

sisted under this part shall be no more restrictive than the standards applicable under Executive Order No. 11988 (May 24, 1977) to the other programs under this subchapter.

**(g) Participation of homeless individuals**

The Secretary shall, by regulation, require each recipient to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policymaking entity of the recipient, to the extent that such entity considers and makes policies and decisions regarding any project, supportive services, or assistance provided under this part. The Secretary may grant waivers to applicants unable to meet the requirement under the preceding sentence if the applicant agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

**(h) Limitation on use of funds**

No assistance received under this part (or any State or local government funds used to supplement such assistance) may be used to replace other State or local funds previously used, or designated for use, to assist homeless persons.

**(i) Limitation on administrative expenses**

No recipient may use more than 5 percent of a grant received under this part for administrative purposes.

**(j) Termination of assistance**

If an individual or family who receives assistance under this part (not including residents of an emergency shelter) from a recipient violates program requirements, the recipient may terminate assistance in accordance with a formal process established by the recipient that recognizes the rights of individuals receiving such assistance to due process of law, which may include a hearing.

(Pub. L. 100-77, title IV, § 426, as added Pub. L. 102-550, title XIV, § 1403(a), Oct. 28, 1992, 106 Stat. 4018; amended Pub. L. 111-22, div. B, title III, § 1304, May 20, 2009, 123 Stat. 1688.)

AMENDMENT OF SECTION

*Pub. L. 111-22, div. B, title III, § 1304, title V, § 1503, May 20, 2009, 123 Stat. 1688, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is amended as follows:*

*(1) by striking subsections (a) and (b), and adding the following new subsections (a) and (b):*

*“(a) Site control*

*“The Secretary shall require that each application include reasonable assurances that the applicant will own or have control of a site for the proposed project not later than the expiration of the 12-month period beginning upon notification of an award for grant assistance, unless the application proposes providing supportive housing assistance*

under section 11383(a)(3) of this title or housing that will eventually be owned or controlled by the families and individuals served. An applicant may obtain ownership or control of a suitable site different from the site specified in the application. If any recipient or project sponsor fails to obtain ownership or control of the site within 12 months after notification of an award for grant assistance, the grant shall be recaptured and reallocated under this part.

*“(b) Required agreements*

*“The Secretary may not provide assistance for a proposed project under this part unless the collaborative applicant involved agrees—*

*“(1) to ensure the operation of the project in accordance with the provisions of this part;*

*“(2) to monitor and report to the Secretary the progress of the project;*

*“(3) to ensure, to the maximum extent practicable, that individuals and families experiencing homelessness are involved, through employment, provision of volunteer services, or otherwise, in constructing, rehabilitating, maintaining, and operating facilities for the project and in providing supportive services for the project;*

*“(4) to require certification from all project sponsors that—*

*“(A) they will maintain the confidentiality of records pertaining to any individual or family provided family violence prevention or treatment services through the project;*

*“(B) that the address or location of any family violence shelter project assisted under this part will not be made public, except with written authorization of the person responsible for the operation of such project;*

*“(C) they will establish policies and practices that are consistent with, and do not restrict the exercise of rights provided by, part B of subchapter VI, and other laws relating to the provision of educational and related services to individuals and families experiencing homelessness;*

*“(D) in the case of programs that provide housing or services to families, they will designate a staff person to be responsible for ensuring that children being served in the program are enrolled in school and connected to appropriate services in the community, including early childhood programs such as Head Start, part C of the Individuals with Disabilities Education Act, and programs authorized under part B of subchapter VI of this chapter (42 U.S.C. 11431 et seq.); and*

*“(E) they will provide data and reports as required by the Secretary pursuant to the Act;*

*“(5) if a collaborative applicant is a unified funding agency under section 11360a(g) of this title and receives funds under this part to carry out the payment of administrative costs described in section 11383(a)(11) of this title, to establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of, and accounting for, such funds in order to ensure that all financial transactions carried out with such funds are conducted, and records maintained, in accordance with generally accepted accounting principles;*

*“(6) to monitor and report to the Secretary the provision of matching funds as required by section 11386d of this title;*

*“(7) to take the educational needs of children into account when families are placed in emergency or transitional shelter and will, to the maximum extent practicable, place families with children as close as possible to their school of origin so as not to disrupt such children’s education; and*

*“(8) to comply with such other terms and conditions as the Secretary may establish to carry out this part in an effective and efficient manner.”;*

*(2) by striking subsection (c) and redesignating subsection (d) as (c);*

*(3) by substituting “recipient or project sponsor” for “recipient” in subsection (c);*

*(4) by striking subsection (e);*

*(5) by redesignating subsections (f) to (h) as (d) to (f), respectively;*

*(6) by substituting “recipient or project sponsor” for “recipient” each place it appears in subsection (e);*

*(7) by striking subsection (i); and*

*(8) by redesignating subsection (j) as (g).*

REFERENCES IN TEXT

The Fair Housing Act, referred to in subsec. (a)(2)(G), is title VIII of Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 81, which is classified principally to subchapter I (§3601 et seq.) of chapter 45 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (a)(2)(G), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Age Discrimination Act of 1975, referred to in subsec. (a)(2)(G), is title III of Pub. L. 94-135, Nov. 28, 1975, 89 Stat. 728, which is classified generally to chapter 76 (§6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

Executive Order No. 11988, referred to in subsec. (f), is set out as a note under section 4321 of this title.

PRIOR PROVISIONS

A prior section 11386, Pub. L. 100-77, title IV, §426, July 22, 1987, 101 Stat. 503, related to establishment of guidelines for purposes of a supportive housing demonstration program, prior to repeal by Pub. L. 102-550, §1403(a).

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-22 effective on the earlier of 18 months after May 20, 2009, or 3 months after publication of certain final regulations by Secretary of Housing and Urban Development, see section 1503 of Pub. L. 111-22, set out as a note under section 11302 of this title.

**§ 11386a. Selection criteria**

**(a) In general**

The Secretary shall award funds to recipients through a national competition between geographic areas based on criteria established by the Secretary.

**(b) Required criteria**

**(1) In general**

The criteria established under subsection (a) shall include—

(A) the previous performance of the recipient regarding homelessness, including per-



formance related to funds provided under section 11372 of this title (except that recipients applying from geographic areas where no funds have been awarded under this part, or under parts C, D, E, or F of subchapter IV of this chapter, as in effect prior to May 20, 2009, shall receive full credit for performance under this subparagraph), measured by criteria that shall be announced by the Secretary, that shall take into account barriers faced by individual homeless people, and that shall include—

- (i) the length of time individuals and families remain homeless;
- (ii) the extent to which individuals and families who leave homelessness experience additional spells of homelessness;
- (iii) the thoroughness of grantees in the geographic area in reaching homeless individuals and families;
- (iv) overall reduction in the number of homeless individuals and families;
- (v) jobs and income growth for homeless individuals and families;
- (vi) success at reducing the number of individuals and families who become homeless;
- (vii) other accomplishments by the recipient related to reducing homelessness; and
- (viii) for collaborative applicants that have exercised the authority under section 11382(j) of this title to serve families with children and youth defined as homeless under other Federal statutes, success in achieving the goals and outcomes identified in subsection (b)(1)(F);

(B) the plan of the recipient, which shall describe—

- (i) how the number of individuals and families who become homeless will be reduced in the community;
- (ii) how the length of time that individuals and families remain homeless will be reduced;
- (iii) how the recipient will collaborate with local education authorities to assist in the identification of individuals and families who become or remain homeless and are informed of their eligibility for services under part B of subchapter VI of this chapter (42 U.S.C. 11431 et seq.);
- (iv) the extent to which the recipient will—
  - (I) address the needs of all relevant subpopulations;
  - (II) incorporate comprehensive strategies for reducing homelessness, including the interventions referred to in section 11386b(d) of this title;
  - (III) set quantifiable performance measures;
  - (IV) set timelines for completion of specific tasks;
  - (V) identify specific funding sources for planned activities; and
  - (VI) identify an individual or body responsible for overseeing implementation of specific strategies; and
- (v) whether the recipient proposes to exercise authority to use funds under section

11382(j) of this title, and if so, how the recipient will achieve the goals and outcomes identified in subsection (b)(1)(F);

(C) the methodology of the recipient used to determine the priority for funding local projects under section 11382(c)(1) of this title, including the extent to which the priority-setting process—

- (i) uses periodically collected information and analysis to determine the extent to which each project has resulted in rapid return to permanent housing for those served by the project, taking into account the severity of barriers faced by the people the project serves;
- (ii) considers the full range of opinions from individuals or entities with knowledge of homelessness in the geographic area or an interest in preventing or ending homelessness in the geographic area;
- (iii) is based on objective criteria that have been publicly announced by the recipient; and
- (iv) is open to proposals from entities that have not previously received funds under this part;

(D) the extent to which the amount of assistance to be provided under this part to the recipient will be supplemented with resources from other public and private sources, including mainstream programs identified by the Government Accountability Office in the two reports described in section 11313(a)(7) of this title;

(E) demonstrated coordination by the recipient with the other Federal, State, local, private, and other entities serving individuals and families experiencing homelessness and at risk of homelessness in the planning and operation of projects;

(F) for collaborative applicants exercising the authority under section 11382(j) of this title to serve homeless families with children and youth defined as homeless under other Federal statutes, program goals and outcomes, which shall include—

- (i) preventing homelessness among the subset of such families with children and youth who are at highest risk of becoming homeless, as such term is defined for purposes of this subchapter; or
- (ii) achieving independent living in permanent housing among such families with children and youth, especially those who have a history of doubled-up and other temporary housing situations or are living in a temporary housing situation due to lack of available and appropriate emergency shelter, through the provision of eligible assistance that directly contributes to achieving such results including assistance to address chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse, or multiple barriers to employment; and

(G) such other factors as the Secretary determines to be appropriate to carry out this part in an effective and efficient manner.

**(2) Additional criteria**

In addition to the criteria required under paragraph (1), the criteria established under paragraph (1) shall also include the need within the geographic area for homeless services, determined as follows and under the following conditions:

**(A) Notice**

The Secretary shall inform each collaborative applicant, at a time concurrent with the release of the notice of funding availability for the grants, of the pro rata estimated grant amount under this part for the geographic area represented by the collaborative applicant.

**(B) Amount****(i) Formula**

Such estimated grant amounts shall be determined by a formula, which shall be developed by the Secretary, by regulation, not later than the expiration of the 2-year period beginning upon May 20, 2009, that is based upon factors that are appropriate to allocate funds to meet the goals and objectives of this part.

**(ii) Combinations or consortia**

For a collaborative applicant that represents a combination or consortium of cities or counties, the estimated need amount shall be the sum of the estimated need amounts for the cities or counties represented by the collaborative applicant.

**(iii) Authority of Secretary**

Subject to the availability of appropriations, the Secretary shall increase the estimated need amount for a geographic area if necessary to provide 1 year of renewal funding for all expiring contracts entered into under this part for the geographic area.

**(3) Homelessness counts**

The Secretary shall not require that communities conduct an actual count of homeless people other than those described in paragraphs (1) through (4) of section 11302(a) of this title.

**(c) Adjustments**

The Secretary may adjust the formula described in subsection (b)(2) as necessary—

- (1) to ensure that each collaborative applicant has sufficient funding to renew all qualified projects for at least one year; and
- (2) to ensure that collaborative applicants are not discouraged from replacing renewal projects with new projects that the collaborative applicant determines will better be able to meet the purposes of this chapter.

(Pub. L. 100-77, title IV, § 427, as added Pub. L. 111-22, div. B, title III, § 1305(3), May 20, 2009, 123 Stat. 1690.)

**ENACTMENT OF SECTION**

*This section is enacted, and existing section 427 of Pub. L. 100-77 (42 U.S.C. 11387) is renumbered section 432 of Pub. L. 100-77, effective as provided in section 1503 of Pub. L. 111-22, set*

*out as an Effective Date of 2009 Amendment note under section 11302 of this title.*

**REFERENCES IN TEXT**

This chapter, referred to in subsec. (c)(2), was in the original “this Act”, meaning Pub. L. 100-77, July 22, 1987, 101 Stat. 482, known as the McKinney-Vento Homeless Assistance Act. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of this title and Tables.

**EFFECTIVE DATE**

Section effective on the earlier of 18 months after May 20, 2009, or 3 months after publication of certain final regulations by Secretary of Housing and Urban Development, see section 1503 of Pub. L. 111-22, set out as an Effective Date of 2009 Amendment note under section 11302 of this title.

**§ 11386b. Allocation of amounts and incentives for specific eligible activities****(a) Minimum allocation for permanent housing for homeless individuals and families with disabilities****(1) In general**

From the amounts made available to carry out this part for a fiscal year, a portion equal to not less than 30 percent of the sums made available to carry out part B and this part, shall be used for permanent housing for homeless individuals with disabilities and homeless families that include such an individual who is an adult or a minor head of household if no adult is present in the household.

**(2) Calculation**

In calculating the portion of the amount described in paragraph (1) that is used for activities that are described in paragraph (1), the Secretary shall not count funds made available to renew contracts for existing projects under section 11386c of this title.

**(3) Adjustment**

The 30 percent figure in paragraph (1) shall be reduced proportionately based on need under section 11386a(b)(2) of this title in geographic areas for which subsection (e) applies in regard to subsection (d)(2)(A).

**(4) Suspension**

The requirement established in paragraph (1) shall be suspended for any year in which funding available for grants under this part after making the allocation established in paragraph (1) would not be sufficient to renew for 1 year all existing grants that would otherwise be fully funded under this part.

**(5) Termination**

The requirement established in paragraph (1) shall terminate upon a finding by the Secretary that since the beginning of 2001 at least 150,000 new units of permanent housing for homeless individuals and families with disabilities have been funded under this part.

**(b) Set-aside for permanent housing for homeless families with children**

From the amounts made available to carry out this part for a fiscal year, a portion equal to not less than 10 percent of the sums made available to carry out part B and this part for that

fiscal year shall be used to provide or secure permanent housing for homeless families with children.

**(c) Treatment of amounts for permanent or transitional housing**

Nothing in this chapter may be construed to establish a limit on the amount of funding that an applicant may request under this part for acquisition, construction, or rehabilitation activities for the development of permanent housing or transitional housing.

**(d) Incentives for proven strategies**

**(1) In general**

The Secretary shall provide bonuses or other incentives to geographic areas for using funding under this part for activities that have been proven to be effective at reducing homelessness generally, reducing homelessness for a specific subpopulation, or achieving homeless prevention and independent living goals as set forth in section 11386a(b)(1)(F) of this title.

**(2) Rule of construction**

For purposes of this subsection, activities that have been proven to be effective at reducing homelessness generally or reducing homelessness for a specific subpopulation includes—

(A) permanent supportive housing for chronically homeless individuals and families;

(B) for homeless families, rapid rehousing services, short-term flexible subsidies to overcome barriers to rehousing, support services concentrating on improving incomes to pay rent, coupled with performance measures emphasizing rapid and permanent rehousing and with leveraging funding from mainstream family service systems such as Temporary Assistance for Needy Families and Child Welfare services; and

(C) any other activity determined by the Secretary, based on research and after notice and comment to the public, to have been proven effective at reducing homelessness generally, reducing homelessness for a specific subpopulation, or achieving homeless prevention and independent living goals as set forth in section 11386a(b)(1)(F) of this title.

**(3) Balance of incentives for proven strategies**

To the extent practicable, in providing bonuses or incentives for proven strategies, the Secretary shall seek to maintain a balance among strategies targeting homeless individuals, families, and other subpopulations. The Secretary shall not implement bonuses or incentives that specifically discourage collaborative applicants from exercising their flexibility to serve families with children and youth defined as homeless under other Federal statutes.

**(e) Incentives for successful implementation of proven strategies**

If any geographic area demonstrates that it has fully implemented any of the activities described in subsection (d) for all homeless individuals and families or for all members of sub-

populations for whom such activities are targeted, that geographic area shall receive the bonus or incentive provided under subsection (d), but may use such bonus or incentive for any eligible activity under either section 11383 of this title or paragraphs (4) and (5) of section 11374(a) of this title for homeless people generally or for the relevant subpopulation.

(Pub. L. 100-77, title IV, § 428, as added Pub. L. 111-22, div. B, title III, § 1305(3), May 20, 2009, 123 Stat. 1693.)

ENACTMENT OF SECTION

*This section is enacted, and existing section 428 of Pub. L. 100-77 (42 U.S.C. 11388) is renumbered section 433 of Pub. L. 100-77, effective as provided in section 1503 of Pub. L. 111-22, set out as an Effective Date of 2009 Amendment note under section 11302 of this title.*

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original “this Act”, meaning Pub. L. 100-77, July 22, 1987, 101 Stat. 482, known as the McKinney-Vento Homeless Assistance Act. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of this title and Tables.

EFFECTIVE DATE

Section effective on the earlier of 18 months after May 20, 2009, or 3 months after publication of certain final regulations by Secretary of Housing and Urban Development, see section 1503 of Pub. L. 111-22, set out as an Effective Date of 2009 Amendment note under section 11302 of this title.

**§ 11386c. Renewal funding and terms of assistance for permanent housing**

**(a) In general**

Renewal of expiring contracts for leasing, rental assistance, or operating costs for permanent housing contracts may be funded either—

(1) under the appropriations account for this subchapter; or

(2) the section 8 [42 U.S.C. 1437f] project-based rental assistance account.

**(b) Renewals**

The sums made available under subsection (a) shall be available for the renewal of contracts in the case of tenant-based assistance, successive 1-year terms, and in the case of project-based assistance, successive terms of up to 15 years at the discretion of the applicant or project sponsor and subject to the availability of annual appropriations, for rental assistance and housing operation costs associated with permanent housing projects funded under this part, or under part C or F (as in effect on the day before the effective date of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009). The Secretary shall determine whether to renew a contract for such a permanent housing project on the basis of certification by the collaborative applicant for the geographic area that—

(1) there is a demonstrated need for the project; and

(2) the project complies with program requirements and appropriate standards of housing quality and habitability, as determined by the Secretary.

**(c) Construction**

Nothing in this section shall be construed as prohibiting the Secretary from renewing contracts under this part in accordance with criteria set forth in a provision of this part other than this section.

(Pub. L. 100-77, title IV, § 429, as added Pub. L. 111-22, div. B, title III, § 1305(3), May 20, 2009, 123 Stat. 1695.)

**ENACTMENT OF SECTION**

*This section is enacted, and existing section 429 of Pub. L. 100-77 (42 U.S.C. 11389) is repealed, effective as provided in section 1503 of Pub. L. 111-22, set out as an Effective Date of 2009 Amendment note under section 11302 of this title.*

**REFERENCES IN TEXT**

The effective date of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, referred to in subsec. (b), probably means the general effective date under section 1503 of Pub. L. 111-22, which is set out as an Effective Date of 2009 Amendment note under section 11302 of this title.

**EFFECTIVE DATE**

Section effective on the earlier of 18 months after May 20, 2009, or 3 months after publication of certain final regulations by Secretary of Housing and Urban Development, see section 1503 of Pub. L. 111-22, set out as an Effective Date of 2009 Amendment note under section 11302 of this title.

**§ 11386d. Matching funding****(a) In general**

A collaborative applicant in a geographic area in which funds are awarded under this part shall specify contributions from any source other than a grant awarded under this part, including renewal funding of projects assisted under parts C, D, and F of this subchapter as in effect before the effective date under section 1503 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, that shall be made available in the geographic area in an amount equal to not less than 25 percent of the funds provided to recipients in the geographic area, except that grants for leasing shall not be subject to any match requirement.

**(b) Limitations on in-kind match**

The cash value of services provided to the residents or clients of a project sponsor by an entity other than the project sponsor may count toward the contributions in subsection (a) only when documented by a memorandum of understanding between the project sponsor and the other entity that such services will be provided.

**(c) Countable activities**

The contributions required under subsection (a) may consist of—

- (1) funding for any eligible activity described under section 11383 of this title; and
- (2) subject to subsection (b), in-kind provision of services of any eligible activity described under section 11383 of this title.

(Pub. L. 100-77, title IV, § 430, as added Pub. L. 111-22, div. B, title III, § 1305(3), May 20, 2009, 123 Stat. 1695.)

**ENACTMENT OF SECTION**

*For delayed effective date of section, see Effective Date note below.*

**REFERENCES IN TEXT**

Section 1503 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, referred to in subsec. (a), is section 1503 of Pub. L. 111-22, which is set out as an Effective Date of 2009 Amendment note under section 11302 of this title.

**EFFECTIVE DATE**

Section effective on the earlier of 18 months after May 20, 2009, or 3 months after publication of certain final regulations by Secretary of Housing and Urban Development, see section 1503 of Pub. L. 111-22, set out as an Effective Date of 2009 Amendment note under section 11302 of this title.

**§ 11386e. Appeal procedure****(a) In general**

With respect to funding under this part, if certification of consistency with the consolidated plan pursuant to section 11361 of this title is withheld from an applicant who has submitted an application for that certification, such applicant may appeal such decision to the Secretary.

**(b) Procedure**

The Secretary shall establish a procedure to process the appeals described in subsection (a).

**(c) Determination**

Not later than 45 days after the date of receipt of an appeal described in subsection (a), the Secretary shall determine if certification was unreasonably withheld. If such certification was unreasonably withheld, the Secretary shall review such application and determine if such applicant shall receive funding under this part.

(Pub. L. 100-77, title IV, § 431, as added Pub. L. 111-22, div. B, title III, § 1305(3), May 20, 2009, 123 Stat. 1696.)

**ENACTMENT OF SECTION**

*This section is enacted, and existing section 431 of Pub. L. 100-77 (42 U.S.C. 11391) is repealed, effective as provided in section 1503 of Pub. L. 111-22, set out as an Effective Date of 2009 Amendment note under section 11302 of this title.*

**EFFECTIVE DATE**

Section effective on the earlier of 18 months after May 20, 2009, or 3 months after publication of certain final regulations by Secretary of Housing and Urban Development, see section 1503 of Pub. L. 111-22, set out as an Effective Date of 2009 Amendment note under section 11302 of this title.

**§ 11387. Regulations**

Not later than the expiration of the 90-day period beginning on October 28, 1992, the Secretary shall issue interim regulations to carry out this part, which shall take effect upon issuance. The Secretary shall issue final regulations to carry out this part after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5 (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment shall not be

less than 60 days, and the final regulations shall be issued not later than the expiration of the 60-day period beginning upon the conclusion of the comment period and shall take effect upon issuance.

(Pub. L. 100-77, title IV, § 427, as added Pub. L. 102-550, title XIV, § 1403(a), Oct. 28, 1992, 106 Stat. 4021; amended Pub. L. 111-22, div. B, title III, § 1305(2), May 20, 2009, 123 Stat. 1690.)

#### RENUMBERING OF SECTION

*Pub. L. 111-22, div. B, title III, § 1305(2), title V, § 1503, May 20, 2009, 123 Stat. 1690, 1702, provided that, effective on the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, section 427 of Pub. L. 100-77, which is classified to this section, is renumbered as section 432 of Pub. L. 100-77.*

#### PRIOR PROVISIONS

A prior section 11387, Pub. L. 100-77, title IV, § 427, July 22, 1987, 101 Stat. 504; Pub. L. 100-628, title IV, § 453, Nov. 7, 1988, 102 Stat. 3236, provided for reports to Congress summarizing the activities carried out under the supportive housing demonstration program, prior to repeal by Pub. L. 102-550, § 1403(a).

### § 11388. Reports to Congress

The Secretary shall submit a report to the Congress annually, summarizing the activities carried out under this part and setting forth the findings, conclusions, and recommendations of the Secretary as a result of the activities. The report shall be submitted not later than 4 months after the end of each fiscal year (except that, in the case of fiscal year 1993, the report shall be submitted not later than 6 months after the end of the fiscal year).

(Pub. L. 100-77, title IV, § 428, as added Pub. L. 102-550, title XIV, § 1403(a), Oct. 28, 1992, 106 Stat. 4021; amended Pub. L. 111-22, div. B, title III, § 1305(2), May 20, 2009, 123 Stat. 1690.)

#### RENUMBERING OF SECTION

*Pub. L. 111-22, div. B, title III, § 1305(2), title V, § 1503, May 20, 2009, 123 Stat. 1690, 1702, provided that, effective on the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, section 428 of Pub. L. 100-77, which is classified to this section, is renumbered as section 433 of Pub. L. 100-77.*

#### PRIOR PROVISIONS

A prior section 11388, Pub. L. 100-77, title IV, § 428, July 22, 1987, 101 Stat. 504; Pub. L. 100-628, title IV, §§ 454, 455, Nov. 7, 1988, 102 Stat. 3236; Pub. L. 101-625, title VIII, § 833(a), Nov. 28, 1990, 104 Stat. 4362, authorized appropriations for the supportive housing demonstration program, prior to repeal by Pub. L. 102-550, § 1403(a).

### § 11389. Authorization of appropriations

#### (a) Authorization of appropriations

There are authorized to be appropriated to carry out this part \$204,000,000 for fiscal year 1993 and \$212,568,000 for fiscal year 1994.

#### (b) Set-asides

Of any amounts appropriated to carry out this part—

(1) not less than 25 percent shall be allocated to projects designed primarily to serve homeless families with children;

(2) not less than 25 percent shall be allocated to projects designed primarily to serve homeless persons with disabilities; and

(3) not less than 10 percent shall be allocated for use only for providing supportive services under sections 11383(a)(5) and 11385 of this title, not provided in conjunction with supportive housing.

#### (c) Reallocations

If, following the receipt of applications for the final funding round under this part for any fiscal year, any amount set aside for assistance pursuant to subsection (b) of this section will not be required to fund the approvable applications submitted for such assistance, the Secretary shall reallocate such amount for other assistance pursuant to this part.

(Pub. L. 100-77, title IV, § 429, as added Pub. L. 102-550, title XIV, § 1403(a), Oct. 28, 1992, 106 Stat. 4021.)

#### REPEAL OF SECTION

*Pub. L. 111-22, div. B, title III, § 1305(1), title V, § 1503, May 20, 2009, 123 Stat. 1690, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is repealed.*

#### PART D—SAFE HAVENS FOR HOMELESS INDIVIDUALS DEMONSTRATION PROGRAM

#### REPEAL OF PART

*Pub. L. 111-22, div. B, title V, §§ 1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this part is repealed.*

### § 11391. Establishment of demonstration

#### (a) In general

The Secretary may make grants to applicants to demonstrate the desirability and feasibility of providing very low-cost housing, to be known as safe havens, to homeless persons who, at the time, are unwilling or unable to participate in mental health treatment programs or to receive other supportive services.

#### (b) Purposes

The demonstration program carried out under this part shall demonstrate—

(1) whether and on what basis eligible persons choose to reside in safe havens;

(2) the extent to which, after a period of residence in a safe haven, residents are willing to participate in mental health treatment programs, substance abuse treatment, or other treatment programs and to move toward a more traditional form of permanent housing and the availability in the community of such permanent housing and treatment programs;

(3) whether safe havens are cost-effective in comparison with other alternatives for eligible persons; and

(4) the various ways in which safe havens may be used to provide accommodations and low-demand services and referrals for eligible persons.

(Pub. L. 100-77, title IV, § 431, as added Pub. L. 102-550, title XIV, § 1404, Oct. 28, 1992, 106 Stat. 4022.)

#### REPEAL OF SECTION

*Pub. L. 111-22, div. B, title V, §§ 1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is repealed.*

#### PRIOR PROVISIONS

A prior section 11391, Pub. L. 100-77, title IV, § 431, July 22, 1987, 101 Stat. 504; Pub. L. 100-242, title V, § 570(i)(2), Feb. 5, 1988, 101 Stat. 1950, provided definitions for a program of supplemental assistance for facilities to assist the homeless, prior to repeal by Pub. L. 102-550, § 1403(a).

### § 11392. Definitions

For purposes of this part:

#### (1) Applicant

The term “applicant” means a nonprofit corporation, public nonprofit organization, State, or unit of general local government.

#### (2) Eligible person

The term “eligible person” means an individual who—

(A) is seriously mentally ill and resides primarily in a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings, which may include occasional residence in an emergency shelter; and

(B) is currently unwilling or unable to participate in mental health or substance abuse treatment programs or to receive other supportive services.

Such term does not include a person whose sole impairment is substance abuse.

#### (3) Facility

The term “facility” means a structure or a clearly identifiable portion of a structure that is assisted under this part.

#### (4) Low-demand services and referrals

The term “low-demand services and referrals” means the provision of health care, men-

tal health, substance abuse, and other supportive services and referrals for services in a non-coercive manner, which may include medication management, education, counseling, job training, and assistance in obtaining entitlement benefits and in obtaining other supportive services including mental health treatment and substance abuse treatment.

#### (5) Nonprofit organization

The term “nonprofit organization” means an organization—

(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

(B) that has a voluntary board;

(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

(D) that practices nondiscrimination in the provision of assistance.

#### (6) Operating costs

The term “operating costs” means expenses incurred by a recipient operating a safe haven under this part with respect to—

(A) the operation of the facility, including the cost of 24-hour management, and maintenance, repair, and security;

(B) utilities, fuel, furnishings, and equipment for such housing; and

(C) other reasonable costs necessary to the operation of the facility, which may include appropriate outreach and drop-in services.

#### (7) Recipient

The term “recipient” means an applicant that receives assistance under this part.

#### (8) Safe haven

The term “safe haven” means a facility—

(A) that provides 24-hour residence for eligible persons who may reside for an unspecified duration;

(B) that provides private or semiprivate accommodations;

(C) that may provide for the common use of kitchen facilities, dining rooms, and bathrooms;

(D) that may provide supportive services to eligible persons who are not residents on a drop-in basis; and

(E) in which overnight occupancy is limited to no more than 25 persons.

#### (9) Secretary

The term “Secretary” means the Secretary of Housing and Urban Development.

#### (10) Seriously mentally ill

The term “seriously mentally ill” means having a severe and persistent mental or emotional impairment that seriously limits a person’s ability to live independently.

#### (11) State

The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and Palau.

#### (12) Unit of general local government

The term “unit of general local government” has the meaning given the term in section 5302(a) of this title.

(Pub. L. 100-77, title IV, §432, as added Pub. L. 102-550, title XIV, §1404, Oct. 28, 1992, 106 Stat. 4022.)

#### REPEAL OF SECTION

*Pub. L. 111-22, div. B, title V, §§1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is repealed.*

#### PRIOR PROVISIONS

A prior section 11392, Pub. L. 100-77, title IV, §432, July 22, 1987, 101 Stat. 505; Pub. L. 100-628, title IV, §§461-463(a), Nov. 7, 1988, 102 Stat. 3236, 3237; Pub. L. 101-625, title VIII, §834(b)-(d), Nov. 28, 1990, 104 Stat. 4365, 4366, provided for supplemental assistance for facilities to assist the homeless, prior to repeal by Pub. L. 102-550, §1403(a).

### § 11393. Program assistance

#### (a) In general

##### (1) Eligible activities

The Secretary may provide assistance with respect to a program under this part for the following activities:

(A) The construction of a structure for use in providing a safe haven or the acquisition, rehabilitation, or acquisition and rehabilitation of an existing structure for use in providing a safe haven.

(B) The leasing of an existing structure for use in providing a safe haven.

(C) To cover the operating costs of a safe haven.

(D) To cover the costs of administering a safe haven program, not to exceed 10 percent of the amounts made available for activities under subparagraphs (A) through (C).

(E) Outreach activities designed to inform eligible persons about and attract them to a safe haven program.

(F) The provision of low-demand services and referrals for residents of a safe haven, except that grants under this part may not be used to cover more than 50 percent of the cost of such services and referrals.

(G) Other activities that further the purposes of this part, including the modification of an existing facility to use a portion of the facility to provide with a safe haven.

##### (2) Period of assistance

Assistance may be provided to any safe haven program for activities under subparagraphs (B) through (F) of paragraph (1) for a period of not more than 5 years, except that the Secretary may, upon application by the recipient, provide assistance for an additional period of time, not to exceed 5 years, subject to—

(A) the determination of the Secretary that the performance of the recipient under this part is satisfactory; and

(B) the availability of appropriations for such purpose.

#### (3) Limit on amount

The total amount of assistance provided to any recipient under this subsection may not exceed \$400,000 in any 5-year period.

#### (b) Matching funding

##### (1) In general

Each recipient shall supplement a grant provided under this part with an equal amount of funds from sources other than this part. Each recipient shall certify to the Secretary that it has complied with this paragraph, and shall include with the certification a description of the sources and amounts of such supplemental funds.

##### (2) Calculation of amounts

In calculating the amount of supplemental funds required under paragraph (1), a recipient may include any funds derived from another source, the value of any lease on a building, any salary paid to staff to carry out the program of the recipient, and the value of the time and services contributed by volunteers, at a rate determined by the Secretary, to carry out the program of the recipient.

(Pub. L. 100-77, title IV, §433, as added Pub. L. 102-550, title XIV, §1404, Oct. 28, 1992, 106 Stat. 4024.)

#### REPEAL OF SECTION

*Pub. L. 111-22, div. B, title V, §§1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is repealed.*

#### PRIOR PROVISIONS

A prior section 11393, Pub. L. 100-77, title IV, §433, July 22, 1987, 101 Stat. 507, related to establishment of regulations for program to provide supplemental assistance for facilities to assist the homeless, prior to repeal by Pub. L. 102-550, §1403(a).

### § 11394. Program requirements

#### (a) Applications

Applications for assistance under this part shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish, and such applications shall contain at a minimum—

(1) a description of the proposed facility;

(2) a description of the number and characteristics of the eligible persons expected to occupy the safe haven;

(3) a plan for identifying and selecting eligible persons to participate;

(4) a program plan, containing a description of the method—

(A) of operation of the facility, including staffing plans and facility rules;

(B) by which the applicant will secure supportive services for residents of the safe haven;

(C) by which the applicant will monitor the willingness of residents to engage in treatment programs and other supportive services;

(D) by which access to supportive services will be secured for residents willing to use them;

(E) by which access to permanent housing with appropriate services, such as the Shelter Plus Care program under part F of this subchapter, will be sought after residents are stabilized; and

(F) by which the applicant will conduct outreach activities to facilitate the entrance of eligible persons into the safe haven;

(5) a plan to ensure that adequate security precautions are taken to make the facility safe for the residents;

(6) an estimate of program costs;

(7) a description of the resources that are expected to be made available in accordance with section 11393(b) of this title;

(8) assurances satisfactory to the Secretary that the facility will have 24-hour, on-site management, if practicable;

(9) assurances satisfactory to the Secretary that the facility will be operated for the purpose specified in the application for each year in which assistance is provided under this part;

(10) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 12705 of this title for the State or unit of general local government within which the facility is located that the proposed activities are consistent with the approved housing strategy for such jurisdiction;

(11) a certification that the applicant will comply with the requirements of the Fair Housing Act [42 U.S.C. 3601 et seq.], title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], and the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], and will affirmatively further fair housing;

(12) a plan for program evaluation based on information that is collected on a periodic basis regarding the characteristics of the residents, including their movement in and out of the safe haven, their willingness to use low-demand services and referrals, the availability and quality of services used, and the movement of residents toward a more traditional form of permanent housing after a period of residency in the safe haven; and

(13) such other information as the Secretary may require.

#### **(b) Site control**

The Secretary shall require that an applicant furnish reasonable assurances that the applicant will have control of a site for the proposed facility not later than 1 year after notification of an award of assistance under this part. If an applicant fails to obtain control of the site within this period, the grant shall be recaptured by the Secretary and reallocated for use under this part.

#### **(c) Selection criteria**

The Secretary shall establish selection criteria for selecting applicants to receive assistance under this part pursuant to a national competition, which shall include—

(1) the extent to which the applicant demonstrates the ability to develop and operate a safe haven;

(2) the extent to which there is a need for a safe haven in the jurisdiction in which the facility will be located;

(3) the extent to which the program would link eligible persons to permanent housing and supportive services after stabilization in a safe haven;

(4) the cost-effectiveness of the proposed program;

(5) providing for geographical diversity among applicants selected to receive assistance;

(6) the extent to which the safe haven would meet the need of the eligible persons proposed to be served by the safe haven; and

(7) such other factors as the Secretary determines to be appropriate for purposes of carrying out the program established under this part in an effective and efficient manner.

#### **(d) Required agreements**

The Secretary may not provide assistance under this part for any safe haven program unless the applicant agrees—

(1) to develop and operate the proposed facility as a safe haven in accordance with the provisions of this part;

(2) to ensure that the facility meets any standards of habitability established by the Secretary;

(3) to provide low-demand services and referrals for the residents of the safe haven;

(4) to prohibit the use of illegal drugs and alcohol in the facility;

(5) to ensure that adequate security precautions are taken to make the facility safe for the residents;

(6) not to establish limitations on the duration of residency;

(7) not to require participation in low-demand services and referrals as a condition of occupancy;

(8) to monitor and report to the Secretary on progress in carrying out the safe haven program;

(9) to the maximum extent practicable, to involve eligible persons, through employment, volunteer services, or otherwise, in renovating, maintaining, and operating facilities assisted under this part and in providing services assisted under this part;

(10) to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policymaking entity of such recipient (in accordance with regulations that the Secretary shall issue), to the extent that such entity considers and makes policies and decisions regarding any facility or services assisted under this part, or to otherwise provide for the consultation and participation of such an individual in considering and making such policies and decisions; and

(11) to comply with such other terms and conditions as the Secretary may establish for purposes of carrying out the program established under this part in an effective and efficient manner.



The Secretary may waive the applicability of the requirement under paragraph (10) for an applicant that is unable to meet such requirement, if the applicant agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

(Pub. L. 100-77, title IV, § 434, as added Pub. L. 102-550, title XIV, § 1404, Oct. 28, 1992, 106 Stat. 4025.)

#### REPEAL OF SECTION

*Pub. L. 111-22, div. B, title V, §§ 1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is repealed.*

#### REFERENCES IN TEXT

The Fair Housing Act, referred to in subsec. (a)(11), is title VIII of Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 81, which is classified principally to subchapter I (§ 3601 et seq.) of chapter 45 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (a)(11), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241. Title VI of the Act is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Age Discrimination Act of 1975, referred to in subsec. (a)(11), is title III of Pub. L. 94-135, Nov. 28, 1975, 89 Stat. 728, which is classified generally to chapter 76 (§ 6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

#### PRIOR PROVISIONS

A prior section 11394, Pub. L. 100-77, title IV, § 434, July 22, 1987, 101 Stat. 508; Pub. L. 100-628, title IV, § 464, Nov. 7, 1988, 102 Stat. 3237; Pub. L. 101-625, title VIII, § 834(a), Nov. 28, 1990, 104 Stat. 4365, authorized appropriations for supplemental assistance for facilities to assist the homeless, prior to repeal by Pub. L. 102-550, § 1403(a).

### § 11395. Occupancy charge

Each eligible person who resides in a facility assisted under this part shall pay an occupancy charge in an amount determined by the recipient, but not to exceed the amount determined under section 1437a(a) of this title. The occupancy charge may be phased in or reduced based on the type of living accommodations provided. The recipient may waive occupancy charges for limited periods of time for residents unwilling or unable to pay them. Occupancy charges paid may be reserved to assist residents in moving to a more traditional form of permanent housing.

(Pub. L. 100-77, title IV, § 435, as added Pub. L. 102-550, title XIV, § 1404, Oct. 28, 1992, 106 Stat. 4027.)

#### REPEAL OF SECTION

*Pub. L. 111-22, div. B, title V, §§ 1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period*

*beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is repealed.*

### § 11396. Termination of assistance

If an eligible person who resides in a safe haven or who receives low-demand services or referrals endangers the safety, welfare, or health of other residents, or repeatedly violates a condition of occupancy contained in the rules for the safe haven (as set forth in the application submitted under this part), the recipient may terminate such residency or assistance in accordance with a formal process established by the rules for the safe haven, which may include a hearing.

(Pub. L. 100-77, title IV, § 436, as added Pub. L. 102-550, title XIV, § 1404, Oct. 28, 1992, 106 Stat. 4027.)

#### REPEAL OF SECTION

*Pub. L. 111-22, div. B, title V, §§ 1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is repealed.*

### § 11397. Evaluation and report

The Secretary shall conduct an evaluation of the safe haven demonstration program under this part and shall submit a report to the Congress, not later than December 31, 1994, which shall set forth the findings of the Secretary as a result of the evaluation.

(Pub. L. 100-77, title IV, § 437, as added Pub. L. 102-550, title XIV, § 1404, Oct. 28, 1992, 106 Stat. 4027.)

#### REPEAL OF SECTION

*Pub. L. 111-22, div. B, title V, §§ 1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is repealed.*

### § 11398. Regulations

#### (a) In general

The Secretary shall, by notice published in the Federal Register, establish such requirements as may be necessary to carry out the amendments made by this part.

#### (b) Consultation

In establishing requirements to carry out the provisions of this part, and in considering applications under this part, the Secretary shall consult with officials of the appropriate agencies of the Department of Health and Human Services and with representative provider and public interest groups.

**(c) Eligibility for SSI and medicaid****(1) Supplemental security income**

All provisions of the Supplemental Security Income program under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.] and of State programs in supplementation thereof shall apply to participants in the safe havens demonstration program under this part, except that no individual living in a safe haven shall—

(A) be considered an inmate of a public institution (as provided in section 1611(e)(1)(A) of such Act [42 U.S.C. 1382(e)(1)(A)]); or

(B) have benefits under such title XVI [42 U.S.C. 1381 et seq.] reduced or terminated because of the receipt of support and maintenance (as provided in section 1612(a)(2)(A) of such Act [42 U.S.C. 1382a(a)(2)(A)]), to the extent such support and maintenance is received as a result of participation in the safe havens demonstration program.

**(2) Medicaid**

A safe haven shall not be considered a hospital, nursing facility, institution for mental disease as defined under section 1905(i) of the Social Security Act [42 U.S.C. 1396d(i)], or any other inpatient facility, for purposes of the program under title XIX of such Act [42 U.S.C. 1396 et seq.], and individuals shall not be denied eligibility for medicaid because of residency in such residence.

(Pub. L. 100-77, title IV, § 438, as added Pub. L. 102-550, title XIV, § 1404, Oct. 28, 1992, 106 Stat. 4027.)

**REPEAL OF SECTION**

*Pub. L. 111-22, div. B, title V, §§ 1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is repealed.*

**REFERENCES IN TEXT**

The Social Security Act, referred to in subsec. (c), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles XVI and XIX of the Act are classified generally to subchapters XVI (§ 1381 et seq.) and XIX (§ 1396 et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

**§ 11399. Authorization of appropriations**

There are authorized to be appropriated to carry out this part \$62,000,000 for fiscal year 1993 and \$64,604,000 for fiscal year 1994.

(Pub. L. 100-77, title IV, § 439, as added Pub. L. 102-550, title XIV, § 1404, Oct. 28, 1992, 106 Stat. 4028.)

**REPEAL OF SECTION**

*Pub. L. 111-22, div. B, title V, §§ 1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of*

*the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is repealed.*

**PART E—MISCELLANEOUS PROVISIONS****REPEAL OF PART**

*Pub. L. 111-22, div. B, title V, §§ 1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this part is repealed.*

**§ 11401. Section 1437f assistance for single room occupancy dwellings****(a) Increase in budget authority**

The budget authority available under section 1437c(c) of this title for assistance under section 1437f(e)(2)<sup>1</sup> of this title is authorized to be increased by \$105,000,000 on or after October 1, 1992, and by \$109,410,000 on or after October 1, 1993.

**(b) Use of funds**

The amounts made available under this section shall be used only in connection with the moderate rehabilitation of housing described in section 1437f(n)<sup>1</sup> of this title for occupancy by homeless individuals, except that amounts made available under this section may be used in connection with the moderate rehabilitation of efficiency units if the building owner agrees to pay the additional cost of rehabilitating and operating such units,<sup>2</sup> and except that the Secretary may provide amounts available under this section to private nonprofit organizations that submit applications for such assistance that are approved by the Secretary.

**(c) Allocation**

The amounts made available under this section shall be allocated by the Secretary of Housing and Urban Development on the basis of a national competition to the applicants that best demonstrate a need for the assistance under this section and the ability to undertake and carry out a program to be assisted under this section. To be considered for assistance under this section, an applicant shall submit to the Secretary of Housing and Urban Development a written proposal containing—

(1) a description of the size and characteristics of the population within the applicant's jurisdiction that would occupy single room occupancy dwellings;

(2) a listing of additional commitments from public and private sources that the applicant might be able to provide in connection with the program;

(3) an inventory of suitable housing stock to be rehabilitated with such assistance;

(4) a description of the interest that has been expressed by builders, developers, and others (including profit and nonprofit organizations) in participating in the program; and

<sup>1</sup> See References in Text note below.

<sup>2</sup> So in original. The period before the comma probably should not appear.

(5) assurances satisfactory to the Secretary that the applicant, to the maximum extent practicable, will involve homeless individuals and families, through employment, volunteer services, or otherwise, in rehabilitating and operating facilities assisted under this section and in providing services for occupants of such facilities.

No single city or urban county shall be eligible to receive more than 10 percent of the assistance made available under this section.

**(d) Fire and safety improvements**

Each contract for housing assistance payments entered into with the authority provided under this section shall require the installation of a sprinkler system that protects all major spaces, hard wired smoke detectors, and such other fire and safety improvements as may be required by State or local law. For purposes of this subsection, the term “major spaces” means hallways, large common areas, and other areas specified in local fire, building, or safety codes.

**(e) Cost limitation**

(1) The total cost of rehabilitation that may be compensated for in a contract for housing assistance payments entered into with the authority provided under this section shall not exceed \$14,000 per unit, plus the expenditures required by subsection (d) of this section.

(2) The Secretary of Housing and Urban Development shall increase the limitation contained in paragraph (1) by an amount the Secretary determines is reasonable and necessary to accommodate special local conditions, including—

- (A) high construction costs; or
- (B) stringent fire or building codes.

(3) The Secretary of Housing and Urban Development shall increase the limitation in paragraph (1) on October 1 of each year by an amount necessary to take into account increases in construction costs during the previous 12-month period.

**(f) Contract requirements**

Each contract for annual contributions entered into with a<sup>3</sup> approved applicant to obligate the authority made available under this section shall—

- (1) commit the Secretary of Housing and Urban Development to make such authority available to the approved applicant for an aggregate period of 10 years, and require that any amendments increasing such authority shall be available for the remainder of such 10-year period;
- (2) provide the Secretary of Housing and Urban Development with the option to renew the contract for an additional period of 10 years, subject to the availability of appropriations; and
- (3) provide that, notwithstanding any other provision of law, first priority for occupancy of housing rehabilitated under this section shall be given to homeless individuals.

**(g) Repealed.** Pub. L. 104-330, title V, § 506(a)(8)(A), Oct. 26, 1996, 110 Stat. 4044

**(h) Participation of homeless individuals**

The Secretary shall, by regulation, require each approved applicant receiving assistance under this section that is not a public housing agency to provide for the participation of not less than one homeless individual or former homeless individual on the board of directors or other equivalent policymaking entity of such applicant, to the extent that such entity considers and makes policies and decisions regarding the rehabilitation of any housing with assistance under this section. The Secretary may grant waivers to approved applicants unable to meet the requirements under the preceding sentence if the applicant agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

**(i) Termination of assistance**

If an individual or family who receives assistance under this section violates program requirements, the recipient of amounts made available under this section may terminate assistance in accordance with a formal process established by the recipient that recognizes the rights of individuals receiving such assistance to due process of law.

**(j) Definitions**

For purposes of this section—

(1) the term “applicant” means a public housing agency, or private nonprofit organization that applies for assistance under this section; and

(2) the term “private nonprofit organization” means an organization—

(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

(B) that has a voluntary board;

(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

(D) that practices nondiscrimination in the provision of assistance.

(Pub. L. 100-77, title IV, § 441, July 22, 1987, 101 Stat. 508; Pub. L. 100-628, title IV, § 481(a)-(d)(1), Nov. 7, 1988, 102 Stat. 3237, 3238; Pub. L. 101-625, title VIII, § 835, Nov. 28, 1990, 104 Stat. 4366; Pub. L. 102-550, title XIV, § 1405(a)-(d), Oct. 28, 1992, 106 Stat. 4028, 4029; Pub. L. 104-330, title V, § 506(a)(8), Oct. 26, 1996, 110 Stat. 4044.)

**REPEAL OF SECTION**

*Pub. L. 111-22, div. B, title V, §§ 1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is repealed.*

**REFERENCES IN TEXT**

Section 1437f(e)(2) of this title, referred to in subsec. (a), was repealed effective Oct. 1, 1991, but to remain in

<sup>3</sup> So in original. Probably should be “an”.

effect with respect to single room occupancy dwellings as authorized by this subchapter, see section 12839(b) of this title.

Section 1437f(n) of this title, referred to in subsec. (b), was repealed by Pub. L. 105-276, title V, § 550(a)(7), Oct. 21, 1998, 112 Stat. 2609.

#### AMENDMENTS

1996—Subsec. (g). Pub. L. 104-330, § 506(a)(8)(A), struck out heading and text of subsec. (g). Text read as follows: “Amounts made available for assistance under this section shall be available through contracts between the Secretary and Indian housing authorities, and the provisions of this section regarding public housing authorities shall include and apply to Indian housing authorities.”

Subsec. (h). Pub. L. 104-330, § 506(a)(8)(B), struck out “or Indian housing authority” after “public housing agency”.

Subsec. (j)(1). Pub. L. 104-330, § 506(a)(8)(C), struck out “, Indian housing authority” after “public housing agency”.

1992—Subsec. (a). Pub. L. 102-550, § 1405(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “The budget authority available under section 1437c(c) of this title for assistance under section 1437f(e)(2) of this title is authorized to be increased by \$79,000,000 on or after October 1, 1990, and by \$82,400,000 on or after October 1, 1991.”

Subsec. (b). Pub. L. 102-550, § 1405(b)(1), inserted before period at end “, and except that the Secretary may provide amounts available under this section to private nonprofit organizations that submit applications for such assistance that are approved by the Secretary”.

Subsec. (c)(5). Pub. L. 102-550, § 1405(c), added par. (5). Subsec. (f). Pub. L. 102-550, § 1405(b)(2), substituted “approved applicant” for “public housing agency” in introductory provisions and par. (1).

Subsecs. (h), (i). Pub. L. 102-550, § 1405(d), added subsecs. (h) and (i).

Subsec. (j). Pub. L. 102-550, § 1405(b)(3), added subsec. (j).

1990—Subsec. (a). Pub. L. 101-625, § 835(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “The budget authority available under section 1437c(c) of this title for assistance under section 1437f(e)(2) of this title is authorized to be increased by \$50,000,000 on or after October 1, 1988, and by \$50,000,000 on or after October 1, 1989.”

Subsec. (g). Pub. L. 101-625, § 835(b), added subsec. (g).

1988—Subsec. (a). Pub. L. 100-628, § 481(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “The budget authority available under section 1437c(c) of this title for assistance under section 1437f(e)(2) of this title is authorized to be increased by \$35,000,000 on or after October 1, 1986, and by \$35,000,000 on or after October 1, 1987.”

Subsec. (b). Pub. L. 100-628, § 481(b), inserted before period at end “, except that amounts made available under this section may be used in connection with the moderate rehabilitation of efficiency units if the building owner agrees to pay the additional cost of rehabilitating and operating such units.”

Subsec. (d). Pub. L. 100-628, § 481(c), inserted sentence defining “major spaces”.

Subsec. (e)(3). Pub. L. 100-628, § 481(d)(1), added par. (3).

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104-330, set out as an Effective Date note under section 4101 of Title 25, Indians.

Amendment by Pub. L. 104-330 applicable with respect to amounts made available for assistance under this subchapter for fiscal year 1998 and fiscal years thereafter, see section 506(c) of Pub. L. 104-330, set out as a note under section 11371 of this title.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Section 481(d)(2) of Pub. L. 100-628 provided that: “The first increase under the amendment made by

paragraph (1) [amending this section] shall be effective with respect to assistance provided on or after October 1, 1988.”

#### § 11402. Environmental review

For purposes of environmental review, assistance and projects under this subchapter shall be treated as assistance for special projects that are subject to section 3547 of this title, and shall be subject to the regulations issued by the Secretary to implement such section.

(Pub. L. 100-77, title IV, § 443, as added Pub. L. 100-628, title IV, § 482(a), Nov. 7, 1988, 102 Stat. 3238; amended Pub. L. 106-377, § 1(a)(1) [title II, § 208], Oct. 27, 2000, 114 Stat. 1441, 1441A-25.)

#### REPEAL OF SECTION

*Pub. L. 111-22, div. B, title V, §§ 1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is repealed.*

#### AMENDMENTS

2000—Pub. L. 106-377 amended section catchline and text generally. Prior to amendment, text read as follows: “The provisions of, and regulations and procedures applicable under, section 5304(g) of this title shall apply to assistance and projects under this subchapter.”

#### PART F—SHELTER PLUS CARE PROGRAM

##### REPEAL OF PART

*Pub. L. 111-22, div. B, title V, §§ 1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this part is repealed.*

#### SUBPART I—GENERAL REQUIREMENTS

#### § 11403. Purpose

The purpose of the program authorized under this part is to provide rental housing assistance, in connection with supportive services funded from sources other than this part, to homeless persons with disabilities (primarily persons who are seriously mentally ill, have chronic problems with alcohol, drugs, or both, or have acquired immunodeficiency syndrome and related diseases) and the families of such persons.

(Pub. L. 100-77, title IV, § 451, as added Pub. L. 101-625, title VIII, § 837(a), Nov. 28, 1990, 104 Stat. 4367.)

#### REPEAL OF SECTION

*Pub. L. 111-22, div. B, title V, §§ 1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication*

*by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111–22, this section is repealed.*

ESTABLISHMENT OF REQUIREMENTS BY NOTICE;  
ISSUANCE OF REGULATIONS

Pub. L. 101–625, title VIII, §837(b), Nov. 28, 1990, 104 Stat. 4374, as amended by Pub. L. 106–400, §2, Oct. 30, 2000, 114 Stat. 1675, provided that: “Not later than 180 days after the date funds authorized under section 459 of the McKinney-Vento Homeless Assistance Act [section 11403h of this title], as amended by this section, first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of subtitle F of that Act [this part]. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the eight-month period following the date of the notice. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period following the date of the notice. In developing program guidelines and regulations to implement such subtitle, the Secretary of Housing and Urban Development may consult with the Secretary of Health and Human Services with respect to supportive services aspects of this subtitle [subtitle C (§§821–841) of title VIII of Pub. L. 101–625, see Tables for classification].”

**§ 11403a. Rental housing assistance**

**(a) In general**

The Secretary is authorized, in accordance with the provisions of this subpart, to provide rental housing assistance under subparts II, III, IV, and V of this part.

**(b) Funding limitations**

To the maximum extent practicable, the Secretary shall reserve not less than 50 percent of all funds provided under this part for homeless individuals who are seriously mentally ill or have chronic problems with alcohol, drugs, or both.

(Pub. L. 100–77, title IV, §452, as added Pub. L. 101–625, title VIII, §837(a), Nov. 28, 1990, 104 Stat. 4367; amended Pub. L. 102–550, title XIV, §1406(g)(2), Oct. 28, 1992, 106 Stat. 4034.)

REPEAL OF SECTION

*Pub. L. 111–22, div. B, title V, §§1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111–22, this section is repealed.*

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–550 substituted “IV, and V” for “and IV”.

**§ 11403b. Supportive services requirements**

**(a) Matching funding**

**(1) In general**

Each recipient shall be required to supplement the assistance provided under this part with an equal amount of funds for supportive services from sources other than this part. Each recipient shall certify to the Secretary

its compliance with this paragraph, and shall include with the certification a description of the sources and amounts of such supplemental funds.

**(2) Determination of matching amounts**

In calculating the amount of supplemental funds provided under this part, a recipient may include the value of any lease on a building, any salary paid to staff to carry out the program of the recipient, and the value of the time and services contributed by volunteers to carry out the program of the recipient at a rate determined by the Secretary.

**(b) Recapture**

If the supportive services and funding for the supportive services required by this section are not provided, the Secretary may recapture any unexpended housing assistance.

(Pub. L. 100–77, title IV, §453, as added Pub. L. 101–625, title VIII, §837(a), Nov. 28, 1990, 104 Stat. 4367.)

REPEAL OF SECTION

*Pub. L. 111–22, div. B, title V, §§1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111–22, this section is repealed.*

**§ 11403c. Applications**

**(a) In general**

An application for rental housing assistance under this part shall be submitted by an applicant in such forms and in accordance with such procedures as the Secretary shall establish.

**(b) Minimum contents**

The Secretary shall require that an application identify the need for the assistance in the community to be served and shall contain at a minimum—

(1) a request for housing assistance under subpart II, III, IV, or V of this part, or a combination, specifying the number of units requested and the amount of necessary budget authority;

(2) a description of the size and characteristics of the population of eligible persons;

(3) an identification of the need for the program in the community to be served;

(4) the identity of the proposed service provider or providers (which may be, or include, the applicant) and a statement of the qualifications of the provider or providers;

(5) a description of the supportive services that the applicant proposes to assure will be available for eligible persons;

(6) a description of the resources that are expected to be made available to provide the supportive services required by section 11403b of this title;

(7) a description of the mechanisms for developing a housing and supportive services plan for each person and for monitoring each person's progress in meeting that plan;

(8) reasonable assurances satisfactory to the Secretary that the supportive services will be provided for the full term of the housing assistance under subpart II, III, IV, or V of this part, or a combination; and a certification from the applicant that it will fund the supportive services itself if the planned resources do not become available for any reason;

(9) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 12705 of this title that the proposed activities are consistent with the approved housing strategy of the unit of general local government within which housing assistance under this part will be provided;

(10) a plan for—

(A) in the case of rental housing assistance under subpart II,<sup>1</sup> or III of this part, providing housing assistance;

(B) identifying and selecting eligible persons to participate, including a proposed definition of the term “chronic problems with alcohol, other drugs, or both”;

(C) coordinating the provision of housing assistance and supportive services;

(D) ensuring that the service providers are providing supportive services adequate to meet the needs of the persons served;

(E) obtaining participation of eligible persons who have previously not been assisted under programs designed to assist the homeless or have been considered not capable of participation in these programs; this plan shall specifically address how homeless persons, as defined in section 11302(a)(2)(C) of this title, (and the families of such persons) will be brought into the program;

(11) in the case of housing assistance under subpart V of this part, identification of the specific structures that the recipient is proposing for assistance; and

(12) in the case of housing assistance under subpart IV of this part, identification of the nonprofit entity that will be the owner or lessor of the property, and identification of the specific structures in which the nonprofit entity proposes to house eligible persons.

(Pub. L. 100-77, title IV, § 454, as added Pub. L. 101-625, title VIII, § 837(a), Nov. 28, 1990, 104 Stat. 4367; amended Pub. L. 102-550, title XIV, § 1406(g)(3), Oct. 28, 1992, 106 Stat. 4034.)

#### REPEAL OF SECTION

*Pub. L. 111-22, div. B, title V, §§ 1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is repealed.*

#### AMENDMENTS

1992—Subsec. (b)(1), (8). Pub. L. 102-550, § 1406(g)(3)(A), (B), substituted “IV, or V” for “or IV”.

Subsec. (b)(10)(A). Pub. L. 102-550, § 1406(g)(3)(C), inserted “, or III” after “subpart II”.

Subsec. (b)(11). Pub. L. 102-550, § 1406(g)(3)(D), substituted “subpart V of this part” for “subpart III of this part” and “proposing for assistance” for “proposing for rehabilitation and assistance”.

#### § 11403d. Selection criteria

##### (a) In general

The Secretary shall establish selection criteria for a national competition for assistance under this part, which shall include—

(1) the ability of the applicant to develop and operate the proposed assisted housing and supportive services program, taking into account the quality of any ongoing program of the applicant;

(2) geographic diversity among the projects to be assisted;

(3) the need for a program providing housing assistance and supportive services for eligible persons in the area to be served;

(4) the quality of the proposed program for providing supportive services and housing assistance;

(5) the extent to which the proposed funding for the supportive services is or will be available;

(6) the extent to which the project would meet the needs of the homeless persons proposed to be served by the program;

(7) the extent to which the program integrates program recipients into the community served by the program;

(8) the cost-effectiveness of the proposed program; and

(9) such other factors as the Secretary specifies in regulations to be appropriate for purposes of carrying out the program established by this part in an effective and efficient manner.

##### (b) Funding limitation

No more than 10 percent of the assistance made available under this part for any fiscal year may be used for programs located within any one unit of general local government.

##### (c) Participation of homeless individuals

The Secretary shall, by regulation, require each recipient to provide for the consultation and participation of not less than one homeless individual or former homeless individual on the board of directors or other equivalent policymaking entity of the recipient, to the extent that such entity considers and makes policies and decisions regarding any housing assisted under this part or services for such housing. The Secretary may grant waivers to recipients unable to meet the requirement under the preceding sentence if the recipient agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

(Pub. L. 100-77, title IV, § 455, as added Pub. L. 101-625, title VIII, § 837(a), Nov. 28, 1990, 104 Stat. 4369; amended Pub. L. 102-550, title XIV, § 1406(b), Oct. 28, 1992, 106 Stat. 4030.)

#### REPEAL OF SECTION

*Pub. L. 111-22, div. B, title V, §§ 1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that, effective on, and applicable beginning on, the*

<sup>1</sup> So in original. The comma probably should not appear.

*earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is repealed.*

#### AMENDMENTS

1992—Subsec. (c). Pub. L. 102-550 added subsec. (c).

### § 11403e. Required agreements

The Secretary may not approve assistance under this part unless the applicant agrees—

- (1) to operate the proposed program in accordance with the provisions of this part;
- (2) to conduct an ongoing assessment of the housing assistance and supportive services required by the participants in the program;
- (3) to assure the adequate provision of supportive services to the participants in the program;
- (4) to comply with such other terms and conditions as the Secretary may establish for purposes of carrying out the program in an effective and efficient manner; and
- (5) to the maximum extent practicable, to involve homeless individuals and families, through employment volunteer services, or otherwise, in constructing or rehabilitating housing assisted under this part and in providing services required under this part.

(Pub. L. 100-77, title IV, § 456, as added Pub. L. 101-625, title VIII, § 837(a), Nov. 28, 1990, 104 Stat. 4369; amended Pub. L. 102-550, title XIV, § 1406(c), Oct. 28, 1992, 106 Stat. 4030.)

#### REPEAL OF SECTION

*Pub. L. 111-22, div. B, title V, §§ 1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is repealed.*

#### AMENDMENTS

1992—Par. (5). Pub. L. 102-550 added par. (5).

### § 11403e-1. Housing standards and rent reasonableness

#### (a) Standards required

The Secretary shall require that—

- (1) before any assistance may be provided to or on behalf of the person, each unit shall be inspected by the applicant directly or by another entity, including the local public housing agency, to determine that the unit meets the housing quality standards under section 1437f of this title and that the occupancy charge for the dwelling unit is reasonable; and
- (2) the recipient shall make at least annual inspections of each unit during the contract term.

#### (b) Prohibition

No assistance may be provided for a dwelling unit (1) for which the occupancy charge is not reasonable, or (2) which fails to meet the hous-

ing standards, unless the owner promptly corrects the deficiency and the recipient verifies the correction.

(Pub. L. 100-77, title IV, § 457, formerly § 464, as added Pub. L. 101-625, title VIII, § 837(a), Nov. 28, 1990, 104 Stat. 4371; renumbered § 457 and amended Pub. L. 102-550, title XIV, § 1406(e)(4), Oct. 28, 1992, 106 Stat. 4031.)

#### REPEAL OF SECTION

*Pub. L. 111-22, div. B, title V, §§ 1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is repealed.*

#### CODIFICATION

Section was formerly classified to section 11404c of this title prior to renumbering by Pub. L. 102-550.

#### AMENDMENTS

1992—Subsec. (a)(1). Pub. L. 102-550 struck out “(or if no such agency exists in the applicable area, an entity selected by the Secretary)” after “public housing agency”.

### § 11403e-2. Tenant rent

Each tenant shall pay as rent an amount determined in accordance with the provisions of section 1437a(a)(1) of this title.

(Pub. L. 100-77, title IV, § 458, formerly § 465, as added Pub. L. 101-625, title VIII, § 837(a), Nov. 28, 1990, 104 Stat. 4372; renumbered § 458, Pub. L. 102-550, title XIV, § 1406(e)(5), Oct. 28, 1992, 106 Stat. 4031.)

#### REPEAL OF SECTION

*Pub. L. 111-22, div. B, title V, §§ 1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is repealed.*

#### CODIFICATION

Section was formerly classified to section 11404d of this title prior to renumbering by Pub. L. 102-550.

### § 11403e-3. Administrative fees

From amounts made available under appropriations Acts, the Secretary shall make amounts available to pay the entity administering the housing assistance an administrative fee in an amount determined appropriate by the Secretary for the costs of administering the housing assistance.

(Pub. L. 100-77, title IV, § 459, formerly § 466, as added Pub. L. 101-625, title VIII, § 837(a), Nov. 28, 1990, 104 Stat. 4372; renumbered § 459, Pub. L. 102-550, title XIV, § 1406(e)(5), Oct. 28, 1992, 106 Stat. 4031.)

#### REPEAL OF SECTION

*Pub. L. 111-22, div. B, title V, §§ 1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that,*

*effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is repealed.*

#### CODIFICATION

Section was formerly classified to section 11404e of this title prior to renumbering by Pub. L. 102-550.

### § 11403e-4. Occupancy

#### (a) Occupancy agreement

The occupancy agreement between a tenant and an owner of a dwelling unit assisted under this part shall be for at least one month.

#### (b) Vacancy payments

If an eligible person vacates a dwelling unit assisted under this part before the expiration of the occupancy agreement, no assistance payment may be made with respect to the unit after the month that follows the month during which the unit was vacated, unless it is occupied by another eligible person.

(Pub. L. 100-77, title IV, § 460, as added Pub. L. 102-550, title XIV, § 1406(e)(6), Oct. 28, 1992, 106 Stat. 4031.)

#### REPEAL OF SECTION

*Pub. L. 111-22, div. B, title V, §§ 1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is repealed.*

### § 11403f. Termination of assistance

#### (a) Authority

If an eligible individual who receives assistance under this part violates program requirements, the recipient may terminate assistance in accordance with the process established pursuant to subsection (b) of this section.

#### (b) Procedure

In terminating assistance under this section, the recipient shall provide a formal process that recognizes the rights of individuals receiving such assistance to due process of law.

(Pub. L. 100-77, title IV, § 461, formerly § 457, as added Pub. L. 101-625, title VIII, § 837(a), Nov. 28, 1990, 104 Stat. 4369; renumbered § 461, Pub. L. 102-550, title XIV, § 1406(e)(1), Oct. 28, 1992, 106 Stat. 4031.)

#### REPEAL OF SECTION

*Pub. L. 111-22, div. B, title V, §§ 1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is repealed.*

#### PRIOR PROVISIONS

A prior section 461 of Pub. L. 100-77 was classified to section 11404 of this title prior to repeal by Pub. L. 102-550.

### § 11403f-1. Term of contract with owner or lessor

An applicant under this part may enter into a contract with the owner or lessor of a property that receives rental assistance under this part having a term of not more than 15 years, subject to the availability of sufficient funds provided in appropriation Acts for the purpose of renewing expiring contracts for assistance payments. Such contract may, at the election of the applicant and owner or lessor, specify that such contract shall be extended for renewal terms of not more than 15 years each, subject to the availability of sufficient such<sup>1</sup> appropriated funds.

(Pub. L. 100-77, title IV, § 462, as added Pub. L. 110-289, div. B, title VIII, § 2835(c)(1)(C), July 30, 2008, 122 Stat. 2874.)

#### REPEAL OF SECTION

*Pub. L. 111-22, div. B, title V, §§ 1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is repealed.*

#### PRIOR PROVISIONS

A prior section 462 of Pub. L. 100-77 was renumbered section 463 and is classified to section 11403g of this title.

Another prior section 462 of Pub. L. 100-77 was renumbered section 472 and is classified to section 11404a of this title.

### § 11403g. Definitions

For purposes of this part:

(1) The term “acquired immunodeficiency syndrome and related diseases” has the meaning given such term in section 12902 of this title.

(2) The term “applicant” means a State, unit of general local government or public housing agency.

(3) The term “eligible person” means a homeless person with disabilities (primarily persons who are seriously mentally ill, have chronic problems with alcohol, drugs, or both, or have acquired immunodeficiency syndrome and related diseases) and the family of such a person.

(4) Repealed. Pub. L. 104-330, title V, § 506(a)(9)(B), Oct. 26, 1996, 110 Stat. 4045.

(5) The term “nonprofit organization” has the meaning given such term by section 12704 of this title, and includes community mental health centers established as public nonprofit organizations.

(6) The term “person with disabilities” has the same meaning given the term in section 8013 of this title.

(7) The term “public housing agency” has the meaning given such term in section 1437a(b)(6) of this title.

<sup>1</sup> So in original.



(8) The term “recipient” means an applicant approved for participation in the program authorized under this part.

(9) The term “Secretary” means the Secretary of Housing and Urban Development.

(10) The term “seriously mentally ill” means having a severe and persistent mental or emotional impairment that seriously limits a person’s ability to live independently.

(11) The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(12) The term “supportive services” means assistance that the Secretary determines (A) addresses the special needs of eligible persons; and (B) provides appropriate services or assists such persons in obtaining appropriate services, including health care, mental health services, substance and alcohol abuse services, child care services, case management services, counseling, supervision, education, job training, and other services essential for achieving and maintaining independent living. Inpatient acute hospital care shall not qualify as a supportive service.

(13) The term “unit of general local government” has the meaning given such term in section 5302 of this title.

(Pub. L. 100–77, title IV, § 463, formerly § 458, as added Pub. L. 101–625, title VIII, § 837(a), Nov. 28, 1990, 104 Stat. 4369; renumbered § 462 and amended Pub. L. 102–550, title XIV, § 1406(e)(2), Oct. 28, 1992, 106 Stat. 4031; Pub. L. 104–330, title V, § 506(a)(9), Oct. 26, 1996, 110 Stat. 4045; renumbered § 463, Pub. L. 110–289, div. B, title VIII, § 2835(c)(1)(A), July 30, 2008, 122 Stat. 2874.)

#### REPEAL OF SECTION

*Pub. L. 111–22, div. B, title V, §§ 1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111–22, this section is repealed.*

#### PRIOR PROVISIONS

A prior section 463 of Pub. L. 100–77 was renumbered section 464 and is classified to section 11403h of this title.

Another prior section 463 of Pub. L. 100–77 was renumbered section 473 and is classified to section 11404b of this title.

#### AMENDMENTS

1996—Par. (2). Pub. L. 104–330, § 506(a)(9)(A), struck out “, Indian tribe,” after “local government”.

Par. (4). Pub. L. 104–330, § 506(a)(9)(B), struck out par. (4) which read as follows: “The term ‘Indian tribe’ has the meaning given such term in section 5302 of this title.”

1992—Par. (2). Pub. L. 102–550, § 1406(e)(2)(A), added par. (2) and struck out former par. (2) which read as follows: “The term ‘applicant’ means—

“(A) in the case of rental housing assistance under subparts II and IV of this part, a State, unit of general local government, or Indian tribe; and

“(B) in the case of single room occupancy housing under the section 8 moderate rehabilitation program under subpart III of this part (i) a State, unit of general local government, or Indian tribe (that shall be responsible for assuring the provision of supportive services and the overall administration of the program), and (ii) a public housing agency (that shall be primarily responsible for administering the housing assistance under subpart III of this part).”

Par. (5). Pub. L. 102–550, § 1406(e)(2)(B), inserted before period at end “, and includes community mental health centers established as public nonprofit organizations”.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104–330, set out as an Effective Date note under section 4101 of Title 25, Indians.

Amendment by Pub. L. 104–330 applicable with respect to amounts made available for assistance under this subchapter for fiscal year 1998 and fiscal years thereafter, see section 506(c) of Pub. L. 104–330, set out as a note under section 11371 of this title.

#### TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

### § 11403h. Authorization of appropriations

#### (a) In general

For purposes of the housing programs under this part, there are authorized to be appropriated \$266,550,000 for fiscal year 1993 and \$277,745,100 for fiscal year 1994. Of any amount appropriated in any fiscal year to carry out this part—

(1) not less than 10 percent shall be available only for carrying out subpart II of this part;

(2) not less than 10 percent shall be available only for carrying out subpart III of this part;

(3) not less than 10 percent shall be available only for carrying out subpart IV of this part; and

(4) not less than 10 percent shall be available only for carrying out subpart V of this part.

#### (b) Availability

Sums appropriated under this section shall remain available until expended.

(Pub. L. 100–77, title IV, § 464, formerly § 459, as added Pub. L. 101–625, title VIII, § 837(a), Nov. 28, 1990, 104 Stat. 4370; renumbered § 463 and amended Pub. L. 102–550, title XIV, § 1406(a), (e)(3), Oct. 28, 1992, 106 Stat. 4029, 4031; renumbered § 464, Pub. L. 110–289, div. B, title VIII, § 2835(c)(1)(A), July 30, 2008, 122 Stat. 2874.)

#### REPEAL OF SECTION

*Pub. L. 111–22, div. B, title V, §§ 1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111–22, this section is repealed.*

#### PRIOR PROVISIONS

A prior section 464 of Pub. L. 100–77 was renumbered section 457 and is classified to section 11403e–1 of this title.

## AMENDMENTS

1992—Subsec. (a). Pub. L. 102-550, §1406(a)(1), added subsec. (a) and struck out former subsec. (a) which authorized appropriations for subpart II of this part for fiscal years 1991 and 1992.

Subsecs. (b) to (d). Pub. L. 102-550, §1406(a)(2), (3), redesignated subsec. (d) as (b) and struck out former subsec. (b) which increased budget authority for the program under subpart III of this part for fiscal years 1991 and 1992 and former subsec. (c) which authorized appropriations for subpart IV of this part for fiscal years 1991 and 1992.

## TRANSITIONAL PROVISIONS; AVAILABILITY OF APPROPRIATIONS

Section 837(c) of Pub. L. 101-625, as amended by Pub. L. 102-27, title II, Apr. 10, 1991, 105 Stat. 151, provided that amounts appropriated for use under part D of this subchapter as it existed before Nov. 28, 1990, were to be available for use under this part.

## SUBPART II—TENANT-BASED RENTAL ASSISTANCE

## § 11404. Authority

The Secretary may use amounts made available under section 11403h of this title to provide tenant-based rental housing assistance for eligible persons in accordance with this subpart.

(Pub. L. 100-77, title IV, §471, as added Pub. L. 102-550, title XIV, §1406(d)(3), Oct. 28, 1992, 106 Stat. 4030; amended Pub. L. 110-289, div. B, title VIII, §2835(c)(1)(B), July 30, 2008, 122 Stat. 2874.)

## REPEAL OF SECTION

*Pub. L. 111-22, div. B, title V, §§1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is repealed.*

## PRIOR PROVISIONS

A prior section 11404, Pub. L. 100-77, title IV, §461, as added Pub. L. 101-625, title VIII, §837(a), Nov. 28, 1990, 104 Stat. 4371, authorized use of appropriations for provision of rental housing assistance to homeless in accordance with shelter plus care program, prior to repeal by Pub. L. 102-550, title XIV, §1406(d)(3), Oct. 28, 1992, 106 Stat. 4030.

A prior section 471 of Pub. L. 100-77 was classified to section 11405 of this title prior to repeal by Pub. L. 102-550.

## AMENDMENTS

2008—Pub. L. 110-289 made technical amendment to reference in original act which appears in text as reference to section 11403h of this title.

## § 11404a. Housing assistance

An eligible person on behalf of whom assistance is provided under this subpart shall select the unit in which such person will live using rental assistance under this subpart; except that where necessary to assure that the provision of supportive services to persons is feasible, a recipient may require that a person participating in the program live (1) in a particular structure or unit for up to the first year of participation, and (2) within a particular geographic area for the full period of participation or the period re-

maining after the period referred to in paragraph<sup>1</sup> (1).

(Pub. L. 100-77, title IV, §472, formerly §462, as added Pub. L. 101-625, title VIII, §837(a), Nov. 28, 1990, 104 Stat. 4371; renumbered §472 and amended Pub. L. 102-550, title XIV, §1406(d)(4), Oct. 28, 1992, 106 Stat. 4031.)

## REPEAL OF SECTION

*Pub. L. 111-22, div. B, title V, §§1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is repealed.*

## PRIOR PROVISIONS

A prior section 472 of Pub. L. 100-77 was classified to section 11405a of this title prior to repeal by Pub. L. 102-550.

## AMENDMENTS

1992—Pub. L. 102-550 substituted “An eligible person on behalf of whom assistance is provided under this subpart shall select the unit in which such person will live using rental assistance under this subpart; except that where” for “Where”.

## § 11404b. Amount of assistance

The contract with a recipient for assistance under this subpart shall be for a term of 5 years. Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rent limitation under section 1437f(c) of this title in effect at the time the application is approved. At the option of the recipient and subject to the availability of such amounts, the recipient may receive in any year (1) up to 25 percent of such amounts or (2) such higher percentage as the Secretary may approve upon a demonstration satisfactory to the Secretary that the recipient has entered into firm financial commitments to ensure that the housing assistance described in the application will be provided for the full term of the contract. Any amounts not needed for a year may be used to increase the amount available in subsequent years.

(Pub. L. 100-77, title IV, §473, formerly §463, as added Pub. L. 101-625, title VIII, §837(a), Nov. 28, 1990, 104 Stat. 4371; renumbered §473 and amended Pub. L. 102-550, title XIV, §1406(d)(5), Oct. 28, 1992, 106 Stat. 4031.)

## REPEAL OF SECTION

*Pub. L. 111-22, div. B, title V, §§1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is repealed.*

<sup>1</sup> So in original. Probably should be “clause”.

## PRIOR PROVISIONS

A prior section 473 of Pub. L. 100-77 was classified to section 11405b of this title prior to repeal by Pub. L. 102-550.

## AMENDMENTS

1992—Pub. L. 102-550 struck out at end “Each recipient shall ensure that the assistance provided by the Secretary, and any amounts provided from other sources, are managed so that the housing assistance described in the application is provided for the full term of the assistance.”

## §§ 11404c to 11404e. Transferred

## CODIFICATION

Section 11404c, Pub. L. 100-77, title IV, § 464, as added Pub. L. 101-625, title VIII, § 837(a), Nov. 28, 1990, 104 Stat. 4371, which provided for housing standards and rent reasonableness, was renumbered section 457 of Pub. L. 100-77 and amended by Pub. L. 102-550, title XIV, § 1406(e)(4), Oct. 28, 1992, 106 Stat. 4031, and transferred to section 11403e-1 of this title.

Section 11404d, Pub. L. 100-77, title IV, § 465, as added Pub. L. 101-625, title VIII, § 837(a), Nov. 28, 1990, 104 Stat. 4372, which provided for payment of rent by tenants, was renumbered section 458 of Pub. L. 100-77 by Pub. L. 102-550, title XIV, § 1406(e)(5), Oct. 28, 1992, 106 Stat. 4031, and transferred to section 11403e-2 of this title.

Section 11404e, Pub. L. 100-77, title IV, § 466, as added Pub. L. 101-625, title VIII, § 837(a), Nov. 28, 1990, 104 Stat. 4372, which provided for payment of administrative fees, was renumbered section 459 of Pub. L. 100-77 by Pub. L. 102-550, title XIV, § 1406(e)(5), Oct. 28, 1992, 106 Stat. 4031, and transferred to section 11403e-3 of this title.

## SUBPART III—PROJECT-BASED RENTAL ASSISTANCE

## § 11405. Authority

The Secretary may use amounts made available under section 11403h of this title to provide project-based rental housing assistance for eligible persons in accordance with this subpart.

(Pub. L. 100-77, title IV, § 476, as added Pub. L. 102-550, title XIV, § 1406(f), Oct. 28, 1992, 106 Stat. 4032; amended Pub. L. 110-289, div. B, title VIII, § 2835(c)(1)(B), July 30, 2008, 122 Stat. 2874.)

## REPEAL OF SECTION

*Pub. L. 111-22, div. B, title V, §§ 1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is repealed.*

## PRIOR PROVISIONS

A prior section 11405, Pub. L. 100-77, title IV, § 471, as added Pub. L. 101-625, title VIII, § 837(a), Nov. 28, 1990, 104 Stat. 4372, authorized use of appropriations in connection with moderate rehabilitation of single room occupancy housing, prior to repeal by Pub. L. 102-550, § 1406(d)(2).

## AMENDMENTS

2008—Pub. L. 110-289 made technical amendment to reference in original act which appears in text as reference to section 11403h of this title.

## § 11405a. Housing assistance

Assistance under this subpart shall be provided pursuant to a contract between the recipient

and an owner of an existing structure. The contract shall provide that rental assistance payments shall be made to the owner and that the units in the structure shall be occupied by eligible persons for not less than the term of the contract.

(Pub. L. 100-77, title IV, § 477, as added Pub. L. 102-550, title XIV, § 1406(f), Oct. 28, 1992, 106 Stat. 4032.)

## REPEAL OF SECTION

*Pub. L. 111-22, div. B, title V, §§ 1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is repealed.*

## PRIOR PROVISIONS

A prior section 11405a, Pub. L. 100-77, title IV, § 472, as added Pub. L. 101-625, title VIII, § 837(a), Nov. 28, 1990, 104 Stat. 4372, related to fire and safety improvements in connection with contracts for housing assistance payments, prior to repeal by Pub. L. 102-550, § 1406(d)(2).

## § 11405b. Term of contract and amount of assistance

## (a) Term of contract

Each contract with a recipient for assistance under this subpart shall be for a term of 5 years, and the owner shall have an option to renew the assistance for an additional 5-year term, subject to the availability of amounts provided in appropriation Acts; except that if an expenditure of at least \$3,000 for each unit (including its prorated share of work on common areas or systems) is required to make the structure decent, safe, and sanitary, and the owner agrees to carry out the rehabilitation with resources other than assistance under this part within 12 months of notification of grant approval, the contract shall be for a term of 10 years; except that, in the case of any project for which equity is provided through any low-income housing tax credit pursuant to section 42 of title 26, if an expenditure of such amount for each unit (including the prorated share of such work) is required to make the structure decent, safe, and sanitary, and the owner agrees to reach initial closing on permanent financing from such other sources within two years and agrees to carry out the rehabilitation with resources other than assistance under this part within 60 months of notification of grant approval, the contract shall be for a term of 10 years (except that such period may be extended by up to 1 year by the Secretary, which extension shall be granted unless the Secretary determines that the sponsor is primarily responsible for the failure to meet such deadline).

## (b) Amount of assistance

Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rental under section 1437f(c)(1) of this title in effect at the time the application is approved. Any amounts not needed for a year may be used to

increase the amount available in subsequent years.

(Pub. L. 100-77, title IV, § 478, as added Pub. L. 102-550, title XIV, § 1406(f), Oct. 28, 1992, 106 Stat. 4032; amended Pub. L. 110-289, div. B, title VIII, § 2835(c)(2), July 30, 2008, 122 Stat. 2874.)

#### REPEAL OF SECTION

*Pub. L. 111-22, div. B, title V, §§ 1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is repealed.*

#### PRIOR PROVISIONS

Prior sections 11405b and 11405c were repealed by Pub. L. 102-550, title XIV, § 1406(d)(2), Oct. 28, 1992, 106 Stat. 4030.

Section 11405b, Pub. L. 100-77, title IV, § 473, as added Pub. L. 101-625, title VIII, § 837(a), Nov. 28, 1990, 104 Stat. 4372, listed provisions to be contained in contracts entered into by Secretary with public housing agencies under shelter plus care program.

Section 11405c, Pub. L. 100-77, title IV, § 474, as added Pub. L. 101-625, title VIII, § 837(a), Nov. 28, 1990, 104 Stat. 4373, related to term of occupancy agreements and issuance of vacancy payments under shelter plus care program.

#### AMENDMENTS

2008—Subsec. (a). Pub. L. 110-289 inserted before period at end “; except that, in the case of any project for which equity is provided through any low-income housing tax credit pursuant to section 42 of title 26, if an expenditure of such amount for each unit (including the prorated share of such work) is required to make the structure decent, safe, and sanitary, and the owner agrees to reach initial closing on permanent financing from such other sources within two years and agrees to carry out the rehabilitation with resources other than assistance under this part within 60 months of notification of grant approval, the contract shall be for a term of 10 years (except that such period may be extended by up to 1 year by the Secretary, which extension shall be granted unless the Secretary determines that the sponsor is primarily responsible for the failure to meet such deadline)”.

#### SUBPART IV—SPONSOR-BASED RENTAL ASSISTANCE

##### § 11406. Authority

The Secretary may use amounts made available under section 11403h of this title to provide sponsor-based rental assistance for eligible persons in accordance with this subpart.

(Pub. L. 100-77, title IV, § 481, as added Pub. L. 102-550, title XIV, § 1406(f), Oct. 28, 1992, 106 Stat. 4032; amended Pub. L. 110-289, div. B, title VIII, § 2835(c)(1)(B), July 30, 2008, 122 Stat. 2874.)

#### REPEAL OF SECTION

*Pub. L. 111-22, div. B, title V, §§ 1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is repealed.*

#### PRIOR PROVISIONS

A prior section 11406, Pub. L. 100-77, title IV, § 481, as added Pub. L. 101-625, title VIII, § 837(a), Nov. 28, 1990, 104 Stat. 4373, authorized use of appropriations in connection with provision of rental housing assistance under section 1701q of Title 12, Banks and Banking, prior to repeal by Pub. L. 102-550, § 1406(d)(2).

#### AMENDMENTS

2008—Pub. L. 110-289 made technical amendment to reference in original act which appears in text as reference to section 11403h of this title.

##### § 11406a. Housing assistance

Assistance under this subpart shall be provided pursuant to a contract between the recipient and a private nonprofit sponsor that owns or leases dwelling units. The contract shall provide that rental assistance payments shall be made to the sponsor and that such assisted units shall be occupied by eligible persons.

(Pub. L. 100-77, title IV, § 482, as added Pub. L. 102-550, title XIV, § 1406(f), Oct. 28, 1992, 106 Stat. 4032.)

#### REPEAL OF SECTION

*Pub. L. 111-22, div. B, title V, §§ 1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is repealed.*

#### PRIOR PROVISIONS

A prior section 11406a, Pub. L. 100-77, title IV, § 482, as added Pub. L. 101-625, title VIII, § 837(a), Nov. 28, 1990, 104 Stat. 4373, related to amount of rental housing assistance to be provided under shelter plus care program in connection with section 1701q of Title 12, Banks and Banking, prior to repeal by Pub. L. 102-550, § 1406(d)(2).

##### § 11406b. Term of contract and amount of assistance

###### (a) Term of contract

The contract with a recipient of assistance under this subpart shall be for a term of 5 years.

###### (b) Amount of assistance

Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rental under section 1437f(c)(1) of this title in effect at the time the application is approved. Any amounts not needed for a year may be used to increase the amount available in subsequent years.

(Pub. L. 100-77, title IV, § 483, as added Pub. L. 102-550, title XIV, § 1406(f), Oct. 28, 1992, 106 Stat. 4033.)

#### REPEAL OF SECTION

*Pub. L. 111-22, div. B, title V, §§ 1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is repealed.*

*opment of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is repealed.*

#### PRIOR PROVISIONS

Prior sections 11406b and 11406c were repealed by Pub. L. 102-550, title XIV, § 1406(d)(2), Oct. 28, 1992, 106 Stat. 4030.

Section 11406b, Pub. L. 100-77, title IV, § 483, as added Pub. L. 101-625, title VIII, § 837(a), Nov. 28, 1990, 104 Stat. 4373, required that certain housing standards be maintained and reasonable rent be charged prior to provision of rental housing assistance under shelter plus care program.

Section 11406c, Pub. L. 100-77, title IV, § 484, as added Pub. L. 101-625, title VIII, § 837(a), Nov. 28, 1990, 104 Stat. 4373, related to payment of administrative fees to non-profit entities for costs of administering rental housing assistance under shelter plus care program.

#### SUBPART V—SECTION 1437f MODERATE REHABILITATION ASSISTANCE FOR SINGLE-ROOM OCCUPANCY DWELLINGS

#### § 11407. Authority

The Secretary may use amounts made available under section 11403h of this title in connection with the moderate rehabilitation of single room occupancy housing described in section 1437f(n)<sup>1</sup> of this title for occupancy by eligible persons in accordance with this subpart. Amounts available under section 11403h of this title may be used in connection with the moderate rehabilitation of efficiency units if the building owner agrees to pay the additional cost of rehabilitating and operating the efficiency units.

(Pub. L. 100-77, title IV, § 486, as added Pub. L. 102-550, title XIV, § 1406(f), Oct. 28, 1992, 106 Stat. 4033; amended Pub. L. 110-289, div. B, title VIII, § 2835(c)(1)(B), July 30, 2008, 122 Stat. 2874.)

#### REPEAL OF SECTION

*Pub. L. 111-22, div. B, title V, §§1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is repealed.*

#### REFERENCES IN TEXT

Section 1437f(n) of this title, referred to in text, was repealed by Pub. L. 105-276, title V, § 550(a)(7), Oct. 21, 1998, 112 Stat. 2609.

#### AMENDMENTS

2008—Pub. L. 110-289 made technical amendment to references in original act which appear in text as references to section 11403h of this title.

#### § 11407a. Fire and safety improvements

Each contract for housing assistance payments entered into under this subpart shall require the installation of a sprinkler system that protects all major spaces, hard-wired smoke detectors, and any other fire safety improvements as may be required by State or local law. For purposes of this section, the term “major

spaces” means hallways, large common areas, and other areas specified in local fire, building, or safety codes.

(Pub. L. 100-77, title IV, § 487, as added Pub. L. 102-550, title XIV, § 1406(f), Oct. 28, 1992, 106 Stat. 4033.)

#### REPEAL OF SECTION

*Pub. L. 111-22, div. B, title V, §§1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is repealed.*

#### § 11407b. Contract requirements

Each contract for annual contributions entered into by the Secretary with a public housing agency to obligate the authority made available under section 11403h of this title for use under this subpart shall—

(1) commit the Secretary to make the authority available to the public housing agency for an aggregate period of 10 years, and require that any amendments increasing the authority shall be available for the remainder of such 10-year period;

(2) provide the Secretary with the option to renew the contract for an additional period of 10 years, subject to the availability of authority; and

(3) provide that, notwithstanding any other provision of law, first priority for occupancy of housing rehabilitated under this subpart shall be given to homeless persons.

(Pub. L. 100-77, title IV, § 488, as added Pub. L. 102-550, title XIV, § 1406(f), Oct. 28, 1992, 106 Stat. 4033; amended Pub. L. 110-289, div. B, title VIII, § 2835(c)(1)(B), July 30, 2008, 122 Stat. 2874.)

#### REPEAL OF SECTION

*Pub. L. 111-22, div. B, title V, §§1501, 1503, May 20, 2009, 123 Stat. 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is repealed.*

#### AMENDMENTS

2008—Pub. L. 110-289 made technical amendment to reference in original act which appears in introductory provisions as reference to section 11403h of this title.

#### PART G—RURAL HOMELESS HOUSING ASSISTANCE

#### CODIFICATION

Pub. L. 111-22, div. B, title IV, § 1401(1), title V, §§1502(c), 1503, May 20, 2009, 123 Stat. 1696, 1701, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this part is redesignated part D and the part heading is amended by substituting “Rural Housing Stability As-

<sup>1</sup> See References in Text note below.

sistance Program” for “Rural Homeless Housing Assistance”.

#### **§ 11408. Rural homelessness grant program**

##### **(a) Establishment**

The Secretary of Housing and Urban Development shall establish and carry out a rural homelessness grant program. In carrying out the program, the Secretary may award grants to eligible organizations in order to pay for the Federal share of the cost of—

- (1) assisting programs providing direct emergency assistance to homeless individuals and families;
- (2) providing homelessness prevention assistance to individuals and families at risk of becoming homeless; and
- (3) assisting individuals and families in obtaining access to permanent housing and supportive services.

##### **(b) Use of funds**

###### **(1) In general**

An eligible organization may use a grant awarded under subsection (a) of this section to provide, in rural areas—

- (A) rent, mortgage, or utility assistance after 2 months of nonpayment in order to prevent eviction, foreclosure, or loss of utility service;
- (B) security deposits, rent for the first month of residence at a new location, and relocation assistance;
- (C) short-term emergency lodging in motels or shelters, either directly or through vouchers;
- (D) transitional housing;
- (E) rehabilitation and repairs such as insulation, window repair, door repair, roof repair, and repairs that are necessary to make premises habitable;
- (F) development of comprehensive and coordinated support services that use and supplement, as needed, community networks of services, including—
  - (i) outreach services to reach eligible recipients;
  - (ii) case management;
  - (iii) housing counseling;
  - (iv) budgeting;
  - (v) job training and placement;
  - (vi) primary health care;
  - (vii) mental health services;
  - (viii) substance abuse treatment;
  - (ix) child care;
  - (x) transportation;
  - (xi) emergency food and clothing;
  - (xii) family violence services;
  - (xiii) education services;
  - (xiv) moving services;
  - (xv) entitlement assistance; and
  - (xvi) referrals to veterans services and legal services; and

(G) costs associated with making use of Federal inventory property programs to house homeless families, including the program established under subchapter V of this chapter and the Single Family Property Disposition Program established pursuant to section 1710(g) of title 12.

##### **(2) Capacity building activities**

Not more than 20 percent of the funds appropriated under subsection (1)(1) of this section for a fiscal year may be used by eligible organizations for capacity building activities, including payment of operating costs and staff retention.

##### **(c) Award of grants**

###### **(1) Communities with populations of less than 10,000**

###### **(A) Set aside**

In awarding grants under subsection (a) of this section for a fiscal year, the Secretary shall make available not less than 50 percent of the funds appropriated under subsection (1)(1) of this section for the fiscal year for grants to eligible organizations serving communities that have populations of less than 10,000.

###### **(B) Priority within set aside**

In awarding grants in accordance with subparagraph (A), the Secretary shall give priority to eligible organizations serving communities with populations of less than 5,000.

###### **(2) Communities without significant Federal assistance**

In awarding grants under subsection (a) of this section, including grants awarded in accordance with paragraph (1), the Secretary shall give priority to eligible organizations serving communities not currently receiving significant Federal assistance under this chapter.

###### **(3) State limit**

In awarding grants under subsection (a) of this section for a fiscal year, the Secretary shall not award to eligible organizations within a State an aggregate sum of more than 10 percent of the funds appropriated under subsection (1)(1) of this section, for the fiscal year.

##### **(d) Application**

In order to be eligible to receive a grant under subsection (a) of this section, an organization shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. The application shall include, at a minimum—

- (1) a description of the target population and geographic area to be served;
- (2) a description of the types of assistance to be provided;
- (3) an assurance that the assistance to be provided is closely related to the identified needs of the target population;
- (4) a description of the existing assistance available to the target population, including Federal, State, and local programs, and a description of the manner in which the organization will coordinate with and expand existing assistance or provide assistance not available in the immediate area;
- (5) an agreement by the organization that the organization will collect data on the projects conducted by the organization, including assistance provided, number and characteristics of persons served, and causes of homelessness for persons served; and

(6) an agreement by the organization that, to the maximum extent practicable, the organization will involve homeless individuals and families through employment, volunteer services, and otherwise, in providing, operating, and rehabilitating housing assisted under this section and in providing services assisted under this section and services for occupants of housing assisted under this section.

**(e) Eligible organizations**

Organizations eligible to receive a grant under subsection (a) of this section shall include private nonprofit entities and county and local governments.

**(f) Federal share**

**(1) In general**

The Federal share of the costs of providing assistance under this section shall be 75 percent.

**(2) Non-Federal share**

The non-Federal share of the cost of providing the assistance shall be in cash or in kind, fairly evaluated, including plant, equipment, staff services, or services delivered by volunteers.

**(g) Participation of homeless individuals**

The Secretary shall, by regulation, require each eligible organization receiving a grant under this section to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policy making entity of the recipient, to the extent that such entity considers and makes policies and decisions regarding any housing, services, or other assistance of the eligible organization receiving the grant under this section. The Secretary may grant waivers to recipients unable to meet the requirement under the preceding sentence if the recipient agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

**(h) Evaluation**

**(1) In general**

The Secretary shall conduct an evaluation of the program to—

- (A) determine the effectiveness of the program in providing housing and other assistance to homeless persons in the area served; and
- (B) determine the types of assistance needed to address homelessness in rural areas.

**(2) Report**

The Secretary shall submit to Congress, not later than 18 months after the date on which the Secretary first makes grants under the program, the evaluation of the program conducted under paragraph (1), including recommendations for any Federal administrative or legislative changes that may be necessary to improve the ability of rural communities to prevent and respond to homelessness.

**(i) Technical assistance**

The Secretary shall provide technical assistance to eligible organizations in developing pro-

grams in accordance with this section, and in gaining access to other Federal resources that may be used to assist homeless persons in rural areas. Such assistance may be provided through regional workshops, and may be provided directly or through grants to, or contracts with, nongovernmental entities.

**(j) Termination of assistance**

If an individual or family who receives assistance under this section violates requirements of the assistance program provided by the organization receiving a grant under this section, the organization may terminate assistance in accordance with a formal process established by the organization that recognizes the rights of individuals receiving such assistance to due process of law, which may include a hearing.

**(k) Definitions**

For purposes of this section:

**(1) Program**

The term “program” means the rural homelessness grant program established under this section.

**(2) Rural area; rural community**

The terms “rural area” and “rural community” mean—

- (A) any area or community, respectively, no part of which is within an area designated as a standard metropolitan statistical area by the Office of Management and Budget; or
- (B) any area or community, respectively, that is—
  - (i) within an area designated as a metropolitan statistical area or considered as part of a metropolitan statistical area; and
  - (ii) located in a rural census tract.

**(3) Secretary**

The term “Secretary” means the Secretary of Housing and Urban Development.

**(l) Authorization of appropriations**

**(1) In general**

There are authorized to be appropriated to carry out this section \$30,000,000 for fiscal year 1993 and \$31,260,000 for fiscal year 1994.

**(2) Availability**

Any amount paid to a grant recipient for a fiscal year that remains unobligated at the end of the year shall remain available to the recipient for the purposes for which the payment was made for the next fiscal year. The Secretary shall take such action as may be necessary to recover any amount not obligated by the recipient at the end of the second fiscal year, and shall redistribute the amount to another eligible organization.

(Pub. L. 100-77, title IV, § 491, as added Pub. L. 102-550, title XIV, § 1408, Oct. 28, 1992, 106 Stat. 4035; amended Pub. L. 104-330, title V, § 506(a)(10), Oct. 26, 1996, 110 Stat. 4045; Pub. L. 111-22, div. B, title IV, § 1401(2), May 20, 2009, 123 Stat. 1696.)

AMENDMENT OF SECTION

*Pub. L. 111-22, div. B, title IV, § 1401(2), title V, § 1503, May 20, 2009, 123 Stat. 1696, 1702, provided that, effective on, and applicable beginning on, the earlier of the expiration of the 18-*

month period beginning on May 20, 2009, or the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504 of Pub. L. 111-22, this section is amended as follows:

(1) by striking the section catchline and inserting “Rural housing stability grant program”;

(2) in subsection (a), by substituting “rural housing stability grant program” for “rural homelessness grant program”, inserting “in lieu of grants under part C” after “eligible organizations”, striking paragraphs (1) to (3), and adding the following new paragraphs:

“(1) rehousing or improving the housing situations of individuals and families who are homeless or in the worst housing situations in the geographic area;

“(2) stabilizing the housing of individuals and families who are in imminent danger of losing housing; and

“(3) improving the ability of the lowest-income residents of the community to afford stable housing.”;

(3) in subsection (b)(1), by striking subparagraph (D), redesignating subparagraphs (E) to (G) as (I) to (K), respectively, and adding the following new subparagraphs:

“(D) construction of new housing units to provide transitional or permanent housing to homeless individuals and families and individuals and families at risk of homelessness;

“(E) acquisition or rehabilitation of a structure to provide supportive services or to provide transitional or permanent housing, other than emergency shelter, to homeless individuals and families and individuals and families at risk of homelessness;

“(F) leasing of property, or portions of property, not owned by the recipient or project sponsor involved, for use in providing transitional or permanent housing to homeless individuals and families and individuals and families at risk of homelessness, or providing supportive services to such homeless and at-risk individuals and families;

“(G) provision of rental assistance to provide transitional or permanent housing to homeless individuals and families and individuals and families at risk of homelessness, such rental assistance may include tenant-based or project-based rental assistance;

“(H) payment of operating costs for housing units assisted under this subchapter.”;

(4) in subsections (b)(2) and (c)(1)(A), (3), by substituting “transferred” for “appropriated”;

(5) in subsection (d), by substituting a semicolon for “; and” in paragraph (5), by substituting “a description of how individuals and families who are homeless or who have the lowest incomes in the community will be involved by the organization” for “an agreement” and all that follows through “families” and a semicolon for the period at the end in paragraph (6), and by adding the following new paragraphs:

“(7) a description of consultations that took place within the community to ascertain the most important uses for funding under this section, in-

cluding the involvement of potential beneficiaries of the project; and

“(8) a description of the extent and nature of homelessness and of the worst housing situations in the community.”;

(6) by striking subsections (f) and (g) and adding the following new subsections:

“(f) Matching funding

“(1) In general

“An organization eligible to receive a grant under subsection (a) shall specify matching contributions from any source other than a grant awarded under this part, that shall be made available in the geographic area in an amount equal to not less than 25 percent of the funds provided for the project or activity, except that grants for leasing shall not be subject to any match requirement.

“(2) Limitations on in-kind match

“The cash value of services provided to the beneficiaries or clients of an eligible organization by an entity other than the organization may count toward the contributions in paragraph (1) only when documented by a memorandum of understanding between the organization and the other entity that such services will be provided.

“(3) Countable activities

“The contributions required under paragraph (1) may consist of—

“(A) funding for any eligible activity described under subsection (b); and

“(B) subject to paragraph (2), in-kind provision of services of any eligible activity described under subsection (b).

“(g) Selection criteria

“The Secretary shall establish criteria for selecting recipients of grants under subsection (a), including—

“(1) the participation of potential beneficiaries of the project in assessing the need for, and importance of, the project in the community;

“(2) the degree to which the project addresses the most harmful housing situations present in the community;

“(3) the degree of collaboration with others in the community to meet the goals described in subsection (a);

“(4) the performance of the organization in improving housing situations, taking account of the severity of barriers of individuals and families served by the organization;

“(5) for organizations that have previously received funding under this section, the extent of improvement in homelessness and the worst housing situations in the community since such funding began;

“(6) the need for such funds, as determined by the formula established under section 11386a(b)(2) of this title; and

“(7) any other relevant criteria as determined by the Secretary.”;

(7) in subsection (h)(1), by substituting “Not later than 18 months after funding is first made available pursuant to the amendments made by title IV of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, the” for “The” in introductory provisions,



“meeting the goals described in subsection (a)” for “providing housing and other assistance to homeless persons” in subparagraph (A), and “meet the goals described in subsection (a) in rural areas” for “address homelessness in rural areas” in subparagraph (B);

(8) in subsection (h)(2), by substituting “Not later than 24 months after funding is first made available pursuant to the amendment made by title IV of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, the” for “The”, by striking “, not later than 18 months after the date on which the Secretary first makes grants under the program,”, and by substituting “meet the goals described in subsection (a)” for “prevent and respond to homelessness”;

(9) in subsection (k)(1), by substituting “rural housing stability grant program” for “rural homelessness grant program”;

(10) in subsection (k)(2), by substituting a semicolon for “; or” in subparagraph (A), by substituting “county where at least 75 percent of the population is rural; or” for “rural census tract.” in subparagraph (B)(ii), and by adding the following new subparagraph:

“(C) any area or community, respectively, located in a State that has population density of less than 30 persons per square mile (as reported in the most recent decennial census), and of which at least 1.25 percent of the total acreage of such State is under Federal jurisdiction, provided that no metropolitan city (as such term is defined in section 5302 of this title) in such State is the sole beneficiary of the grant amounts awarded under this section.”;

(11) in subsection (l), by striking the heading and inserting “Program funding”, striking paragraph (1), and adding the following new paragraph:

“(1) In general

“The Secretary shall determine the total amount of funding attributable under section 11386a(b)(2) of this title to meet the needs of any geographic area in the Nation that applies for funding under this section. The Secretary shall transfer any amounts determined under this subsection from the Community Homeless Assistance Program and consolidate such transferred amounts for grants under this section, except that the Secretary shall transfer an amount not less than 5 percent of the amount available under part C for grants under this section. Any amounts so transferred and not used for grants under this section due to an insufficient number of applications shall be transferred to be used for grants under part C.”; and

(12) by adding the following new subsection:

“(m) Determination of funding source

“For any fiscal year, in addition to funds awarded under part B, funds under this subchapter to be used in a city or county shall only be awarded under either part C or part D.”

#### REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(2), was in the original “this Act”, meaning Pub. L. 100-77, July 22, 1987, 101 Stat. 482, known as the McKinney-Vento Homeless Assistance Act. For complete classification

of this Act to the Code, see Short Title note set out under section 11301 of this title and Tables.

#### AMENDMENTS

1996—Subsec. (e). Pub. L. 104-330 struck out “, Indian tribes (as such term is defined in section 5302(a) of this title),” after “nonprofit entities”.

#### EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-22 effective on the earlier of 18 months after May 20, 2009, or 3 months after publication of certain final regulations by Secretary of Housing and Urban Development, see section 1503 of Pub. L. 111-22, set out as a note under section 11302 of this title.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104-330, set out as an Effective Date note under section 4101 of Title 25, Indians.

Amendment by Pub. L. 104-330 applicable with respect to amounts made available for assistance under this subchapter for fiscal year 1998 and fiscal years thereafter, see section 506(c) of Pub. L. 104-330, set out as a note under section 11371 of this title.

### § 11408a. Use of FMHA inventory for transitional housing for homeless persons and for turnkey housing

#### (a) In general

The Secretary of Agriculture (in this section referred to as the “Secretary”) shall, on a priority basis, lease or sell program and nonprogram inventory properties held by the Secretary under title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.]—

(1) to provide transitional housing; and

(2) to provide turnkey housing for tenants of such transitional housing and for eligible families.

#### (b) Priority

The priority uses of inventory property under this section shall not have a higher priority than—

(1) the disposition of such property by sale to eligible families; or

(2) the disposition of such property by transfer for use as rental housing by eligible families.

#### (c) Transitional housing

##### (1) Leases authorized

The Secretary shall lease inventory properties to public agencies and nonprofit organizations to provide transitional housing for homeless families and individuals and to provide such agencies the option to provide turnkey housing opportunities for homeless persons and other inadequately housed families.

##### (2) Rental to eligible families

A public agency or nonprofit organization may rent housing leased to it under paragraph (1) to a family for up to 10 years and may, during that period, assist the tenant in obtaining a loan and credit assistance under title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.] to purchase the housing from the Secretary.

#### (d) Lease procedures

##### (1) Identification of property

Upon receipt by the Secretary of written notification from a public agency or nonprofit

organization that it proposes to lease a property for the purpose of providing transitional housing or for the purpose of providing transitional housing and turnkey housing opportunities, the Secretary shall—

(A) withdraw the property from the market for not more than 30 days for the purpose of negotiations under subparagraph (B);

(B) negotiate a lease agreement with the organization or agency; and

(C) if a lease is agreed to, commence the repairs necessary to make the property meet standards for decent, safe, and sanitary housing.

**(2) Lease terms**

A lease of inventory property under this section shall—

(A) be for a period of not more than 10 years;

(B) provide for the payment of \$1 for the 10-year lease; and

(C) provide the nonprofit organization or public agency—

(i) the right to use the property for transitional housing; and

(ii) the option to arrange for the sale of the property to an eligible purchaser.

**(e) Purchase procedures**

**(1) Identification of property**

Upon receipt by the Secretary of written notification from a public agency or nonprofit organization that it proposes to purchase a property for the purpose of providing transitional housing or for the purpose of providing transitional housing and turnkey housing opportunities, the Secretary shall—

(A) withdraw the property from the market for not more than 30 days for the purpose of negotiations under subparagraph (B);

(B) negotiate a purchase agreement with the organization or agency; and

(C) if a purchase agreement is agreed to, commence the repairs necessary to make the property meet standards for decent, safe, and sanitary housing.

**(2) Purchase terms**

A purchase of inventory property under this section shall provide for a purchase price equal to not more than the fair market value of the property minus 10 percent.

**(f) Employment of homeless individuals**

A public agency or nonprofit organization may lease or purchase property under this section only if the agency or organization, to the maximum extent practicable, involves homeless individuals and families, through employment, volunteer services, or otherwise, in maintaining, operating, and renovating any properties leased or acquired under this section and in providing any services for occupants of properties assisted under this section.

**(g) Participation of homeless individuals**

**(1) In general**

The Secretary shall, by regulation, require each public agency and nonprofit organization leasing or purchasing property under this section to provide for the participation of not less

than 1 homeless individual or former homeless individual on the board of directors or other equivalent policy making entity of such agency or organization, to the extent that such organization or applicant considers and makes policies and decisions regarding any property acquired under this section.

**(2) Waiver**

The Secretary may grant a waiver to a public agency or nonprofit organization that is unable to meet the requirement of paragraph (1), if the agency or organization agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

**(h) Budget compliance**

The authority provided to the Secretary under this section shall be effective only to the extent approved in advance in appropriations Acts.

(Pub. L. 100-77, title IV, §592[492], as added Pub. L. 102-550, title XIV, §1414, Oct. 28, 1992, 106 Stat. 4041.)

REFERENCES IN TEXT

The Housing Act of 1949, referred to in subsecs. (a) and (c)(2), is act July 15, 1949, ch. 338, 63 Stat. 413, as amended. Title V of the Act is classified generally to subchapter III (§1471 et seq.) of chapter 8A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of this title and Tables.

SUBCHAPTER V—IDENTIFICATION AND USE OF SURPLUS FEDERAL PROPERTY

**§ 11411. Use of unutilized and underutilized public buildings and real property to assist the homeless**

**(a) Identification of suitable property**

The Secretary of Housing and Urban Development shall, on a quarterly basis, request information from each landholding agency regarding Federal public buildings and other Federal real properties (including fixtures) that are excess property or surplus property or that are described as unutilized or underutilized in surveys by the heads of landholding agencies under section 524(a)(2) and (3) of title 40. No later than 25 days after receiving a request from the Secretary, the head of each landholding agency shall transmit such information to the Secretary. No later than 30 days after receiving such information, the Secretary shall identify which of those buildings and other properties are suitable for use to assist the homeless.

**(b) Availability of property**

(1) The Secretary shall promptly notify each Federal agency with respect to any property of that agency that the Secretary has identified under subsection (a) of this section. No later than 45 days after receipt of such a notice, the head of the appropriate landholding agency shall transmit to the Secretary the agency's response to property identifications contained in such notification, which shall include—

(A) in the case of unutilized or underutilized property—

(i) a statement of intention to determine the property excess to the agency's needs;

(ii) a statement of intention to make the property available for use to assist the homeless; or

(iii) a statement of the reasons (including a full explanation of the need) the property cannot be determined excess to the agency's needs or made available for use to assist the homeless; and

(B) in the case of excess property—

(i) a statement that there is no other compelling Federal need for the property and, therefore, the property will be determined surplus; or

(ii) a statement that there is further and compelling Federal need for the property (including a full explanation of such need) and that, therefore, the property is not presently available for use to assist the homeless.

(2)(A) All properties identified by the Secretary under subsection (a) of this section shall be available for application—

(i) in the case of property other than surplus property, for use to assist the homeless in accordance with the provisions of this section; and

(ii) in the case of surplus property, for use to assist the homeless either in accordance with this section or as a public health use in accordance with section 550(a)–(d) of title 40.

(3) The Secretary shall maintain a written public record of—

(A) the identification of buildings and other properties by the Secretary under this subsection and the reasons for such identifications; and

(B) the responses of landholding agencies to such identifications.

**(c) Publication of properties**

(1)(A) No later than 15 days after the last day of the 45-day period provided for under subsection (b)(1) of this section, the Secretary shall publish in the Federal Register—

(i) a list of all properties reviewed by the Secretary under subsection (a) of this section; and

(ii) a list of all properties that are available under subsection (b)(2) of this section for application for use to assist the homeless.

(B) Each publication of properties shall include a description and the location of each property (including the address and zip code) and the current classification of each property as unutilized, underutilized, excess property, or surplus property.

(C) The Secretary shall make available to the public upon request all information in the possession of the Department of Housing and Urban Development (other than valuation information), regardless of format, about all properties reviewed and not identified as being suitable for use to assist the homeless, including the reasons such properties were not so identified.

(D) The Secretary shall publish separately, on an annual basis, all properties identified as being suitable for use to assist the homeless, but reported to be unavailable, and the reasons such properties were unavailable.

(2)(A) No later than 15 days after the last day of the 45-day period provided for under sub-

section (b)(1) of this section, the Secretary shall transmit a copy of the list of available properties published under paragraph (1)(A)(ii) to the United States Interagency Council on Homelessness. The Council shall immediately distribute to all State and regional homeless coordinators area-relevant portions of the list.

(B) The Secretary, the Administrator, and the Secretary of Health and Human Services shall make such efforts as are necessary to ensure the widest possible dissemination of the information on such list.

(C) The Secretary shall establish a toll-free number to provide the public with specific information about properties on such list.

(3) The Secretary shall make available to the public upon request all information (other than valuation information) regardless of format in the possession of the Department of Housing and Urban Development about the properties published under paragraph (1)(A), including environmental assessment data. The Secretary shall maintain a current list of agency contacts for making referrals of inquiries for information about specific properties.

(4)(A) On December 31 of each year, the head of each landholding agency shall report to the Secretary the current availability status and the current classification of each property controlled by the agency, that—

(i) was included in a list published in that year by the Secretary under paragraph (1)(A)(ii); and

(ii) remains available for application for use to assist the homeless or has become available for application during that year.

(B) No later than February 15 each year, the Secretary shall publish in the Federal Register a list of all properties reported under subparagraph (A) for the preceding year and the current classification of the properties.

(C) For purposes of subparagraph (A), property shall not be considered to remain available for application for use to assist the homeless after the 60-day holding period provided under subsection (d) of this section if—

(i) an application for or written expression of interest in the property is made under any law for use of the property for any purpose; or

(ii) the Administrator receives a bona fide offer to purchase the property or advertises for the sale of the property by public auction.

**(d) Holding period**

(1) Properties published under subsection (c)(1)(A)(ii) of this section as available for application for use to assist the homeless shall not be available for any other purpose for a period of 60 days beginning on the date of such publication.

(2) If written notice of intent to apply for such a property for use to assist the homeless is received by the Secretary of Health and Human Services within the 60-day period described under paragraph (1), such property may not be made available for any other purpose until the date the Secretary of Health and Human Services or other appropriate landholding agency has completed action on the application submitted under subsection (e) of this section with respect to that written notice of intent.

(3) Property that is reviewed by the Secretary under subsection (a) of this section and that is

not identified by the Secretary as being suitable for use to assist the homeless may not be made available for any other purpose for 20 days after the determination of unsuitability to allow for review of the determination at the request of the representative of the homeless. The Secretary shall disseminate immediately this information to the regional offices of the Department of Housing and Urban Development and to the United States Interagency Council on Homelessness.

(4)(A) Written notice of intent to apply for a property published under subsection (c)(1)(A)(ii) of this section may be filed at any time after the 60-day period described in paragraph (1) has expired. In such case, an application submitted pursuant to the notice may be approved for disposal for use to assist the homeless only if the property remains available for application for use to assist the homeless. If the property remains available, the use to assist the homeless shall be given priority of consideration over other competing disposal opportunities under sections 541–555 of title 40, except as provided in subsection (f)(3)(A) of this section.

(B) Surplus property for which an application has been approved shall be assigned promptly to the Secretary of Health and Human Services for disposition in accordance with and subject to subsection (f) of this section.

**(e) Application for property**

(1) A representative of the homeless may submit an application to the Secretary of Health and Human Services for any property that is published under subsection (c)(1)(A)(ii) of this section as available for application for use to assist the homeless.

(2) No later than 90 days after the submission of written notice of intent to apply for a property, an applicant shall submit a complete application to the Secretary of Health and Human Services. The Secretary of Health and Human Services shall, with the concurrence of the appropriate landholding agency, grant reasonable extensions.

(3) No later than 25 days after receipt of a completed application, the Secretary of Health and Human Services shall review, make all determinations, and complete all actions on the application. The Secretary of Health and Human Services shall maintain a written public record of all actions taken in response to an application.

**(f) Making property available to representatives of homeless**

(1) Subject to the provisions of this subsection, property for which the Secretary of Health and Human Services has approved an application under subsection (e) of this section shall be made promptly available by permit or lease, or by deed as a public health use under section 550(a)–(d) of title 40, to the representative of the homeless that submitted the application.

(2) Unutilized or underutilized property that is the subject of an agency's statement of intention under subsection (b)(1)(A)(ii) of this section shall be made promptly available by the appropriate landholding agency to the approved applicant by lease or permit for a term of not less

than 1 year, unless the applicant requests a shorter term.

(3)(A) In disposing of surplus property by deed or lease under sections 541–555 of title 40, the Administrator and the Secretary of Health and Human Services shall give priority of consideration to uses to assist the homeless, unless the Administrator or the Secretary of Health and Human Services determines that a competing request for the property under section 550 of title 40 is so meritorious and compelling as to outweigh the needs of the homeless.

(B) Whenever the Administrator or the Secretary of Health and Human Services makes a determination under subparagraph (A), the Administrator or the Secretary of Health and Human Services shall transmit to the appropriate committees of the Congress an explanatory statement detailing the need satisfied by conveyance of the surplus property and the reasons for determining that such need was so meritorious and compelling as to outweigh the needs of the homeless.

(4) For any property made available by lease to a representative of the homeless before November 29, 1990, the Secretary of Health and Human Services may, upon written request by the representative, convey such property by deed to the representative in accordance with, and subject to the requirements of, section 550 of title 40. The lease term shall not be affected if a deed is not granted.

**(g) Records**

The Secretary shall maintain a written public record of—

(1) the reasons for determinations of the Secretary under this section that property is suitable or unsuitable for use to assist the homeless; and

(2) the responses of landholding agencies under subsection (b)(1) of this section.

**(h) Applicability to property under base closure process**

(1) The provisions of this section shall not apply to buildings and property at military installations that are approved for closure under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) after October 25, 1994.

(2) For provisions relating to the use to assist the homeless of buildings and property located at certain military installations approved for closure under such Act, or under title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note), before October 25, 1994, see section 2(e) of Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

**(i) Definitions**

For purposes of this section—

(1) the term “Administrator” means the Administrator of General Services;

(2) each of the terms “excess property” and “surplus property” has the meaning given that term under section 102 of title 40;

(3) the term “landholding agency” means a Federal department or agency with statutory authority to control real property;

(4) the term “representative of the homeless” means a State or local government agency, or private nonprofit organization, which provides services to the homeless; and

(5) the term “Secretary” means the Secretary of Housing and Urban Development, except as otherwise provided.

(Pub. L. 100-77, title V, § 501, July 22, 1987, 101 Stat. 509; Pub. L. 100-628, title V, § 501, Nov. 7, 1988, 102 Stat. 3240; Pub. L. 101-645, title IV, § 401(a), Nov. 29, 1990, 104 Stat. 4719; Pub. L. 102-484, div. B, title XXVIII, § 2824, Oct. 23, 1992, 106 Stat. 2608; Pub. L. 103-421, § 2(d), Oct. 25, 1994, 108 Stat. 4352; Pub. L. 108-199, div. G, title II, § 216(4), Jan. 23, 2004, 118 Stat. 394.)

#### REFERENCES IN TEXT

The Defense Base Closure and Realignment Act of 1990, referred to in subsec. (h), is part A of title XXIX of div. B of Pub. L. 101-510, Nov. 5, 1990, 104 Stat. 1808, as amended, which is set out as a note under section 2687 of Title 10, Armed Forces. For complete classification of this Act to the Code, see Tables.

Title II of the Defense Authorization Amendments and Base Closure and Realignment Act, referred to in subsec. (h)(2), is title II of Pub. L. 100-526, Oct. 24, 1988, 102 Stat. 2627, as amended, which is set out as a note under section 2687 of Title 10. For complete classification of this Act to the Code, see Short Title of 1988 Amendment note set out under section 2687 of Title 10 and Tables.

Section 2(e) of Base Closure Community Redevelopment and Homeless Assistance Act of 1994, referred to in subsec. (h)(2), is section 2(e) of Pub. L. 103-421, which is set out as a note under section 2687 of Title 10.

#### CODIFICATION

In subsec. (a), “section 524(a)(2) and (3) of title 40” substituted for “section 202(b)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(b)(2))”, in subsecs.(b)(2)(A)(ii) and (f)(1), “section 550(a)-(d) of title 40” substituted for “paragraphs (1) and (4) of section 203(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)(1) and (4))”, in subsecs. (d)(4)(A) and (f)(3)(A), “sections 541-555 of title 40” substituted for “section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484)”, in subsec. (f)(3)(A), “section 550 of title 40” substituted for “section 203(k) of such Act”, meaning the Federal Property and Administrative Services Act of 1949, in subsec. (f)(4), “section 550 of title 40” substituted for “section 203(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k))”, and, in subsec. (i)(2), “section 102 of title 40” substituted for “section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472)”, on authority of Pub. L. 107-217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

#### AMENDMENTS

2004—Subsecs. (c)(2)(A), (d)(3). Pub. L. 108-199 substituted “United States Interagency Council on Homelessness” for “Interagency Council on the Homeless”.

1994—Subsecs. (h), (i). Pub. L. 103-421 added subsec. (h) and redesignated former subsec. (h) as (i).

1992—Subsec. (c)(4)(C). Pub. L. 102-484, § 2824(a), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “For purposes of subparagraph (A), property shall be considered to remain available for application for use to assist the homeless if, subsequent to the 60-day holding period provided under subsection (d) of this section—

“(i) no application or written expression of interest has been made under any law for use of the property for any purpose; and

“(ii) the Administrator has not received a bona fide offer to purchase the property or advertised for the sale of the property by public auction.”

Subsec. (f)(2). Pub. L. 102-484, § 2824(b), inserted “or” after “Unutilized”.

1990—Pub. L. 101-645 amended section generally, substituting present provisions consisting of subsecs. (a) to (h) for former provisions consisting of subsecs. (a) to (e).

1988—Pub. L. 100-628, § 501(1), substituted “unutilized and underutilized” for “underutilized” in section catchline.

Subsec. (a). Pub. L. 100-628, § 501(2), substituted “unutilized or underutilized” for “underutilized” in heading and text and inserted “, within 2 months after collecting such information,” before “shall identify” in text.

Subsec. (b)(1). Pub. L. 100-628, § 501(3)(A), inserted “or to make the property available, on an interim basis, for use as facilities to assist the homeless” after “agency’s need”.

Subsec. (b)(2). Pub. L. 100-628, § 501(3)(B), inserted before period at end “or made available on an interim basis for use as facilities to assist the homeless”.

Subsec. (d). Pub. L. 100-628, § 501(4)(A), struck out “by lease” after “property” in heading.

Subsec. (d)(1). Pub. L. 100-628, § 501(4)(B), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Federal buildings or property may be made available under this section only through the use of leases for at least 1 year. Ownership of the buildings and property shall not be transferred from the Federal Government.”

Subsec. (d)(2). Pub. L. 100-628, § 501(4)(C), substituted “With respect to property identified under subsection (a) which has been designated as surplus property,” for “To permit leases of surplus Federal buildings and other real property under this section.”

#### EFFECTIVE DATE OF 1990 AMENDMENT

Section 401(b) of Pub. L. 101-645 provided that: “The amendment made by subsection (a) [amending this section] shall be effective 90 days after the date of the enactment of this Act [Nov. 29, 1990].”

#### REGULATIONS

Section 401(d) of Pub. L. 101-645 provided that: “No later than 90 days after the date of the enactment of this Act [Nov. 29, 1990], the Administrator of General Services, the Secretary of Health and Human Services, and the Secretary of Housing and Urban Development shall promulgate regulations implementing this section and the amendment made by this section [amending this section and enacting provisions set out as notes under this section].”

#### CONSULTATION AND REPORT REGARDING USE OF NATIONAL GUARD FACILITIES AS OVERNIGHT SHELTERS FOR HOMELESS INDIVIDUALS

Pub. L. 102-550, title XIV, § 1411, Oct. 28, 1992, 106 Stat. 4039, provided that:

“(a) USE OF AVAILABLE SPACE AT NATIONAL GUARD FACILITIES.—The Secretary of Housing and Urban Development shall consult with the chief executive officers of the States and the Secretary of Defense to determine the availability of space at National Guard facilities for use by homeless organizations in providing overnight shelter for homeless persons and families. The Secretary of Housing and Urban Development shall determine the availability of only such space that can be used for shelter purposes during periods it is not actively being used for National Guard purposes. The Secretary of Housing and Urban Development shall also determine the availability of incidental services at such facilities, including utilities, bedding, security, transportation, renovation of facilities, minor repairs undertaken specifically to make available space in a facility suitable for use as an overnight shelter for homeless individuals, and property liability insurance.

“(b) LIMITATIONS.—In consultations under this section, the Secretary of Housing and Urban Development shall determine—

“(1) the number and capacity of such facilities that may be made available for shelters for homeless persons and families without adversely affecting the military or emergency service preparedness of the State or the United States; and

“(2) whether any available space is suitable for use as an overnight shelter for homeless individuals or can, with minor repairs, be made suitable for that use.

“(c) REPORT.—The Secretary of Housing and Urban Development shall submit to the Congress, not later than the expiration of the 1-year period beginning on the date of the enactment of this Act [Oct. 28, 1992], a report regarding the consultations and determinations made by the Secretary under this section. The report shall include any recommendations of the Secretary regarding the need for, and feasibility of, using National Guard facilities for homeless shelters and any recommendations of the Secretary for administrative or legislative action to provide for such use.”

#### UNUTILIZED AND UNDERUTILIZED PROPERTY FOR PURPOSES OF 1990 AMENDMENT

Section 401(c) of Pub. L. 101-645, as amended by Pub. L. 106-400, § 2, Oct. 30, 2000, 114 Stat. 1675, provided that: “For purposes of section 501 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411) (as amended by this Act) the terms ‘unutilized’ and ‘underutilized’ when used to describe property have the same meaning such terms had before the date of the enactment of this Act [Nov. 29, 1990] under such section 501.”

### § 11412. Making surplus personal property available to nonprofit agencies

#### (a) Omitted

#### (b) Requirement for notification

Within 90 days after July 22, 1987, the Administrator of General Services shall require each State agency administering a State plan under section 549(a)–(e) of title 40 to make generally available information about surplus personal property which may be used in the provision of food, shelter, or other services to homeless individuals.

#### (c) Costs

Surplus personal property identified pursuant to this section shall be made available to providers of assistance to homeless individuals by a State agency distributing such property at (1) a nominal cost to such organization or (2) at no cost when the Administrator agrees to reimburse the State agency for the costs of care and handling of such property.

(Pub. L. 100-77, title V, § 502, July 22, 1987, 101 Stat. 510.)

#### CODIFICATION

Section is comprised of section 502 of Pub. L. 100-77. Subsec. (a) of section 502 amended section 203(j)(3)(B) of the Federal Property and Administrative Services Act of 1949, which was classified to section 484(j)(3)(B) of former Title 40, Public Buildings, Property, and Works, and was repealed and reenacted as section 549(c)(3)(B) of Title 40, Public Buildings, Property, and Works, by Pub. L. 107-217, §§ 1, 6(b), Aug. 21, 2002, 116 Stat. 1062, 1304.

In subsec. (b), “section 549(a)–(e) of title 40” substituted for “203(j) of the Federal Property and Administrative Services Act of 1949” on authority of Pub. L. 107-217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

## SUBCHAPTER VI—EDUCATION AND TRAINING

### PART A—ADULT EDUCATION FOR HOMELESS

#### § 11421. Repealed. Pub. L. 105-220, title I, § 199(b)(1), Aug. 7, 1998, 112 Stat. 1059

Section, Pub. L. 100-77, title VII, § 701, as added Pub. L. 103-382, title III, § 322, Oct. 20, 1994, 108 Stat. 3956, related to State literacy initiatives.

A prior section 11421, Pub. L. 100-77, title VII, § 702, July 22, 1987, 101 Stat. 525; Pub. L. 100-297, title VI, § 6001, Apr. 28, 1988, 102 Stat. 423; Pub. L. 100-628, title VII, § 701, Nov. 7, 1988, 102 Stat. 3244; Pub. L. 101-645, title VI, § 611, Nov. 29, 1990, 104 Stat. 4734, related to State literacy initiatives, prior to the general amendment of this part by Pub. L. 103-382.

#### EFFECTIVE DATE OF REPEAL

Pub. L. 105-220, title I, § 199(c)(2)(A), Aug. 7, 1998, 112 Stat. 1059, provided that: “The repeal made by subsection (b)(1) [repealing sections 11421, 11461 to 11466, 11471, and 11472 of this title] shall take effect on July 1, 1999.”

### PART B—EDUCATION FOR HOMELESS CHILDREN AND YOUTHS

#### § 11431. Statement of policy

The following is the policy of the Congress:

(1) Each State educational agency shall ensure that each child of a homeless individual and each homeless youth has equal access to the same free, appropriate public education, including a public preschool education, as provided to other children and youths.

(2) In any State that has a compulsory residency requirement as a component of the State’s compulsory school attendance laws or other laws, regulations, practices, or policies that may act as a barrier to the enrollment, attendance, or success in school of homeless children and youths, the State will review and undertake steps to revise such laws, regulations, practices, or policies to ensure that homeless children and youths are afforded the same free, appropriate public education as provided to other children and youths.

(3) Homelessness alone is not sufficient reason to separate students from the mainstream school environment.

(4) Homeless children and youths should have access to the education and other services that such children and youths need to ensure that such children and youths have an opportunity to meet the same challenging State student academic achievement standards to which all students are held.

(Pub. L. 100-77, title VII, § 721, as added Pub. L. 107-110, title X, § 1032, Jan. 8, 2002, 115 Stat. 1989.)

#### PRIOR PROVISIONS

A prior section 11431, Pub. L. 100-77, title VII, § 721, as added Pub. L. 103-382, title III, § 323, Oct. 20, 1994, 108 Stat. 3957, stated policy of Congress, prior to the general amendment of this part by Pub. L. 107-110.

Another prior section 11431, Pub. L. 100-77, title VII, § 721, July 22, 1987, 101 Stat. 525; Pub. L. 101-645, title VI, § 612(a), Nov. 29, 1990, 104 Stat. 4735, stated policy of Congress, prior to the general amendment of this part by Pub. L. 103-382.

#### EFFECTIVE DATE

Part effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive pro-

grams, see section 5 of Pub. L. 107-110, set out as a note under section 6301 of Title 20, Education.

**§ 11432. Grants for State and local activities for the education of homeless children and youths**

**(a) General authority**

The Secretary is authorized to make grants to States in accordance with the provisions of this section to enable such States to carry out the activities described in subsections (d) through (g) of this section.

**(b) Application**

No State may receive a grant under this section unless the State educational agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

**(c) Allocation and reservations**

**(1) Allocation**

(A) Subject to subparagraph (B), the Secretary is authorized to allot to each State an amount that bears the same ratio to the amount appropriated for such year under section 11435 of this title that remains after the Secretary reserves funds under paragraph (2) and uses funds to carry out section 11434(d) and (h) of this title, as the amount allocated under section 1122 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6332] to the State for that year bears to the total amount allocated under section 1122 of such Act to all States for that year, except that no State shall receive less than the greater of—

- (i) \$150,000;
- (ii) one-fourth of 1 percent of the amount appropriated under section 11435 of this title for that year; or
- (iii) the amount such State received under this section for fiscal year 2001.

(B) If there are insufficient funds in a fiscal year to allot to each State the minimum amount under subparagraph (A), the Secretary shall ratably reduce the allotments to all States based on the proportionate share that each State received under this subsection for the preceding fiscal year.

**(2) Reservations**

(A) The Secretary is authorized to reserve 0.1 percent of the amount appropriated for each fiscal year under section 11435 of this title to be allocated by the Secretary among the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, according to their respective need for assistance under this part, as determined by the Secretary.

(B)(i) The Secretary shall transfer 1 percent of the amount appropriated for each fiscal year under section 11435 of this title to the Department of the Interior for programs for Indian students served by schools funded by the Secretary of the Interior, as determined under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), that are consistent with the purposes of the programs described in this part.

(ii) The Secretary and the Secretary of the Interior shall enter into an agreement, consistent with the requirements of this part, for the distribution and use of the funds described in clause (i) under terms that the Secretary determines best meet the purposes of the programs described in this part. Such agreement shall set forth the plans of the Secretary of the Interior for the use of the amounts transferred, including appropriate goals, objectives, and milestones.

**(3) State defined**

For purposes of this subsection, the term “State” does not include the United States Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands.

**(d) Activities**

Grants under this section shall be used for the following:

- (1) To carry out the policies set forth in section 11431 of this title in the State.
- (2) To provide activities for, and services to, homeless children, including preschool-aged homeless children, and youths that enable such children and youths to enroll in, attend, and succeed in school, or, if appropriate, in preschool programs.
- (3) To establish or designate an Office of Coordinator for Education of Homeless Children and Youths in the State educational agency in accordance with subsection (f) of this section.
- (4) To prepare and carry out the State plan described in subsection (g) of this section.
- (5) To develop and implement professional development programs for school personnel to heighten their awareness of, and capacity to respond to, specific problems in the education of homeless children and youths.

**(e) State and local subgrants**

**(1) Minimum disbursements by States**

From the sums made available each year to carry out this part, the State educational agency shall distribute not less than 75 percent in subgrants to local educational agencies for the purposes of carrying out section 11433 of this title, except that States funded at the minimum level set forth in subsection (c)(1) of this section shall distribute not less than 50 percent in subgrants to local educational agencies for the purposes of carrying out section 11433 of this title.

**(2) Use by State educational agency**

A State educational agency may use funds made available for State use under this part to conduct activities under subsection (f) of this section directly or through grants or contracts.

**(3) Prohibition on segregating homeless students**

**(A) In general**

Except as provided in subparagraph (B) and section 11433(a)(2)(B)(ii) of this title, in providing a free public education to a homeless child or youth, no State receiving funds under this part shall segregate such child or youth in a separate school, or in a separate

program within a school, based on such child's or youth's status as homeless.

**(B) Exception**

Notwithstanding subparagraph (A), paragraphs (1)(J)(i) and (3) of subsection (g) of this section, section 11433(a)(2) of this title, and any other provision of this part relating to the placement of homeless children or youths in schools, a State that has a separate school for homeless children or youths that was operated in fiscal year 2000 in a covered county shall be eligible to receive funds under this part for programs carried out in such school if—

- (i) the school meets the requirements of subparagraph (C);
- (ii) any local educational agency serving a school that the homeless children and youths enrolled in the separate school are eligible to attend meets the requirements of subparagraph (E); and
- (iii) the State is otherwise eligible to receive funds under this part.

**(C) School requirements**

For the State to be eligible under subparagraph (B) to receive funds under this part, the school described in such subparagraph shall—

- (i) provide written notice, at the time any child or youth seeks enrollment in such school, and at least twice annually while the child or youth is enrolled in such school, to the parent or guardian of the child or youth (or, in the case of an unaccompanied youth, the youth) that—

(I) shall be signed by the parent or guardian (or, in the case of an unaccompanied youth, the youth);

(II) sets forth the general rights provided under this part;

(III) specifically states—

(aa) the choice of schools homeless children and youths are eligible to attend, as provided in subsection (g)(3)(A) of this section;

(bb) that no homeless child or youth is required to attend a separate school for homeless children or youths;

(cc) that homeless children and youths shall be provided comparable services described in subsection (g)(4) of this section, including transportation services, educational services, and meals through school meals programs; and

(dd) that homeless children and youths should not be stigmatized by school personnel; and

(IV) provides contact information for the local liaison for homeless children and youths and the State Coordinator for Education of Homeless Children and Youths;

- (ii)(I) provide assistance to the parent or guardian of each homeless child or youth (or, in the case of an unaccompanied youth, the youth) to exercise the right to attend the parent's or guardian's (or youth's) choice of schools, as provided in subsection (g)(3)(A) of this section; and

(II) coordinate with the local educational agency with jurisdiction for the school selected by the parent or guardian (or youth), to provide transportation and other necessary services;

(iii) ensure that the parent or guardian (or, in the case of an unaccompanied youth, the youth) shall receive the information required by this subparagraph in a manner and form understandable to such parent or guardian (or youth), including, if necessary and to the extent feasible, in the native language of such parent or guardian (or youth); and

(iv) demonstrate in the school's application for funds under this part that such school—

(I) is complying with clauses (i) and (ii); and

(II) is meeting (as of the date of submission of the application) the same Federal and State standards, regulations, and mandates as other public schools in the State (such as complying with sections 1111 and 1116 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6311, 6316] and providing a full range of education and related services, including services applicable to students with disabilities).

**(D) School ineligibility**

A separate school described in subparagraph (B) that fails to meet the standards, regulations, and mandates described in subparagraph (C)(iv)(II) shall not be eligible to receive funds under this part for programs carried out in such school after the first date of such failure.

**(E) Local educational agency requirements**

For the State to be eligible to receive the funds described in subparagraph (B), the local educational agency described in subparagraph (B)(ii) shall—

- (i) implement a coordinated system for ensuring that homeless children and youths—

(I) are advised of the choice of schools provided in subsection (g)(3)(A) of this section;

(II) are immediately enrolled, in accordance with subsection (g)(3)(C) of this section, in the school selected under subsection (g)(3)(A) of this section; and

(III) are promptly provided necessary services described in subsection (g)(4) of this section, including transportation, to allow homeless children and youths to exercise their choices of schools under subsection (g)(3)(A) of this section;

- (ii) document that written notice has been provided—

(I) in accordance with subparagraph (C)(i) for each child or youth enrolled in a separate school under subparagraph (B); and

(II) in accordance with subsection (g)(6)(A)(v) of this section;

- (iii) prohibit schools within the agency's jurisdiction from referring homeless chil-



dren or youths to, or requiring homeless children and youths to enroll in or attend, a separate school described in subparagraph (B);

(iv) identify and remove any barriers that exist in schools within the agency's jurisdiction that may have contributed to the creation or existence of separate schools described in subparagraph (B); and

(v) not use funds received under this part to establish—

(I) new or additional separate schools for homeless children or youths; or

(II) new or additional sites for separate schools for homeless children or youths, other than the sites occupied by the schools described in subparagraph (B) in fiscal year 2000.

## **(F) Report**

### **(i) Preparation**

The Secretary shall prepare a report on the separate schools and local educational agencies described in subparagraph (B) that receive funds under this part in accordance with this paragraph. The report shall contain, at a minimum, information on—

(I) compliance with all requirements of this paragraph;

(II) barriers to school access in the school districts served by the local educational agencies; and

(III) the progress the separate schools are making in integrating homeless children and youths into the mainstream school environment, including the average length of student enrollment in such schools.

### **(ii) Compliance with information requests**

For purposes of enabling the Secretary to prepare the report, the separate schools and local educational agencies shall cooperate with the Secretary and the State Coordinator for Education of Homeless Children and Youths established in the State under subsection (d)(3) of this section, and shall comply with any requests for information by the Secretary and State Coordinator for such State.

### **(iii) Submission**

Not later than 2 years after January 8, 2002, the Secretary shall submit the report described in clause (i) to—

(I) the President;

(II) the Committee on Education and the Workforce of the House of Representatives; and

(III) the Committee on Health, Education, Labor, and Pensions of the Senate.

## **(G) Definition**

For purposes of this paragraph, the term “covered county” means—

(i) San Joaquin County, California;

(ii) Orange County, California;

(iii) San Diego County, California; and

(iv) Maricopa County, Arizona.

## **(f) Functions of the Office of Coordinator**

The Coordinator for Education of Homeless Children and Youths established in each State shall—

(1) gather reliable, valid, and comprehensive information on the nature and extent of the problems homeless children and youths have in gaining access to public preschool programs and to public elementary schools and secondary schools, the difficulties in identifying the special needs of such children and youths, any progress made by the State educational agency and local educational agencies in the State in addressing such problems and difficulties, and the success of the programs under this part in allowing homeless children and youths to enroll in, attend, and succeed in, school;

(2) develop and carry out the State plan described in subsection (g) of this section;

(3) collect and transmit to the Secretary, at such time and in such manner as the Secretary may require, a report containing such information as the Secretary determines is necessary to assess the educational needs of homeless children and youths within the State;

(4) facilitate coordination between the State educational agency, the State social services agency, and other agencies (including agencies providing mental health services) to provide services to homeless children, including preschool-aged homeless children, and youths, and to families of such children and youths;

(5) in order to improve the provision of comprehensive education and related services to homeless children and youths and their families, coordinate and collaborate with—

(A) educators, including child development and preschool program personnel;

(B) providers of services to homeless and runaway children and youths and homeless families (including domestic violence agencies, shelter operators, transitional housing facilities, runaway and homeless youth centers, and transitional living programs for homeless youths);

(C) local educational agency liaisons designated under subsection (g)(1)(J)(ii) of this section for homeless children and youths; and

(D) community organizations and groups representing homeless children and youths and their families; and

(6) provide technical assistance to local educational agencies in coordination with local educational agency liaisons designated under subsection (g)(1)(J)(ii) of this section, to ensure that local educational agencies comply with the requirements of subsection (e)(3) of this section and paragraphs (3) through (7) of subsection (g) of this section.

## **(g) State plan**

### **(1) In general**

Each State shall submit to the Secretary a plan to provide for the education of homeless children and youths within the State. Such plan shall include the following:

(A) A description of how such children and youths are (or will be) given the opportunity

to meet the same challenging State academic achievement standards all students are expected to meet.

(B) A description of the procedures the State educational agency will use to identify such children and youths in the State and to assess their special needs.

(C) A description of procedures for the prompt resolution of disputes regarding the educational placement of homeless children and youths.

(D) A description of programs for school personnel (including principals, attendance officers, teachers, enrollment personnel, and pupil services personnel) to heighten the awareness of such personnel of the specific needs of runaway and homeless youths.

(E) A description of procedures that ensure that homeless children and youths who meet the relevant eligibility criteria are able to participate in Federal, State, or local food programs.

(F) A description of procedures that ensure that—

(i) homeless children have equal access to the same public preschool programs, administered by the State agency, as provided to other children in the State;

(ii) homeless youths and youths separated from the public schools are identified and accorded equal access to appropriate secondary education and support services; and

(iii) homeless children and youths who meet the relevant eligibility criteria are able to participate in Federal, State, or local before- and after-school care programs.

(G) Strategies to address problems identified in the report provided to the Secretary under subsection (f)(3) of this section.

(H) Strategies to address other problems with respect to the education of homeless children and youths, including problems resulting from enrollment delays that are caused by—

(i) immunization and medical records requirements;

(ii) residency requirements;

(iii) lack of birth certificates, school records, or other documentation;

(iv) guardianship issues; or

(v) uniform or dress code requirements.

(I) A demonstration that the State educational agency and local educational agencies in the State have developed, and shall review and revise, policies to remove barriers to the enrollment and retention of homeless children and youths in schools in the State.

(J) Assurances that—

(i) the State educational agency and local educational agencies in the State will adopt policies and practices to ensure that homeless children and youths are not stigmatized or segregated on the basis of their status as homeless;

(ii) local educational agencies will designate an appropriate staff person, who may also be a coordinator for other Fed-

eral programs, as a local educational agency liaison for homeless children and youths, to carry out the duties described in paragraph (6)(A); and

(iii) the State and its local educational agencies will adopt policies and practices to ensure that transportation is provided, at the request of the parent or guardian (or in the case of an unaccompanied youth, the liaison), to and from the school of origin, as determined in paragraph (3)(A), in accordance with the following, as applicable:

(I) If the homeless child or youth continues to live in the area served by the local educational agency in which the school of origin is located, the child's or youth's transportation to and from the school of origin shall be provided or arranged by the local educational agency in which the school of origin is located.

(II) If the homeless child's or youth's living arrangements in the area served by the local educational agency of origin terminate and the child or youth, though continuing his or her education in the school of origin, begins living in an area served by another local educational agency, the local educational agency of origin and the local educational agency in which the homeless child or youth is living shall agree upon a method to apportion the responsibility and costs for providing the child with transportation to and from the school of origin. If the local educational agencies are unable to agree upon such method, the responsibility and costs for transportation shall be shared equally.

## **(2) Compliance**

### **(A) In general**

Each plan adopted under this subsection shall also describe how the State will ensure that local educational agencies in the State will comply with the requirements of paragraphs (3) through (7).

### **(B) Coordination**

Such plan shall indicate what technical assistance the State will furnish to local educational agencies and how compliance efforts will be coordinated with the local educational agency liaisons designated under paragraph (1)(J)(ii).

## **(3) Local educational agency requirements**

### **(A) In general**

The local educational agency serving each child or youth to be assisted under this part shall, according to the child's or youth's best interest—

(i) continue the child's or youth's education in the school of origin for the duration of homelessness—

(I) in any case in which a family becomes homeless between academic years or during an academic year; or

(II) for the remainder of the academic year, if the child or youth becomes permanently housed during an academic year; or

(ii) enroll the child or youth in any public school that nonhomeless students who live in the attendance area in which the child or youth is actually living are eligible to attend.

**(B) Best interest**

In determining the best interest of the child or youth under subparagraph (A), the local educational agency shall—

(i) to the extent feasible, keep a homeless child or youth in the school of origin, except when doing so is contrary to the wishes of the child's or youth's parent or guardian;

(ii) provide a written explanation, including a statement regarding the right to appeal under subparagraph (E), to the homeless child's or youth's parent or guardian, if the local educational agency sends such child or youth to a school other than the school of origin or a school requested by the parent or guardian; and

(iii) in the case of an unaccompanied youth, ensure that the homeless liaison designated under paragraph (1)(J)(ii) assists in placement or enrollment decisions under this subparagraph, considers the views of such unaccompanied youth, and provides notice to such youth of the right to appeal under subparagraph (E).

**(C) Enrollment**

(i) The school selected in accordance with this paragraph shall immediately enroll the homeless child or youth, even if the child or youth is unable to produce records normally required for enrollment, such as previous academic records, medical records, proof of residency, or other documentation.

(ii) The enrolling school shall immediately contact the school last attended by the child or youth to obtain relevant academic and other records.

(iii) If the child or youth needs to obtain immunizations, or immunization or medical records, the enrolling school shall immediately refer the parent or guardian of the child or youth to the local educational agency liaison designated under paragraph (1)(J)(ii), who shall assist in obtaining necessary immunizations, or immunization or medical records, in accordance with subparagraph (D).

**(D) Records**

Any record ordinarily kept by the school, including immunization or medical records, academic records, birth certificates, guardianship records, and evaluations for special services or programs, regarding each homeless child or youth shall be maintained—

(i) so that the records are available, in a timely fashion, when a child or youth enters a new school or school district; and

(ii) in a manner consistent with section 1232g of title 20.

**(E) Enrollment disputes**

If a dispute arises over school selection or enrollment in a school—

(i) the child or youth shall be immediately admitted to the school in which

enrollment is sought, pending resolution of the dispute;

(ii) the parent or guardian of the child or youth shall be provided with a written explanation of the school's decision regarding school selection or enrollment, including the rights of the parent, guardian, or youth to appeal the decision;

(iii) the child, youth, parent, or guardian shall be referred to the local educational agency liaison designated under paragraph (1)(J)(ii), who shall carry out the dispute resolution process as described in paragraph (1)(C) as expeditiously as possible after receiving notice of the dispute; and

(iv) in the case of an unaccompanied youth, the homeless liaison shall ensure that the youth is immediately enrolled in school pending resolution of the dispute.

**(F) Placement choice**

The choice regarding placement shall be made regardless of whether the child or youth lives with the homeless parents or has been temporarily placed elsewhere.

**(G) School of origin defined**

In this paragraph, the term "school of origin" means the school that the child or youth attended when permanently housed or the school in which the child or youth was last enrolled.

**(H) Contact information**

Nothing in this part shall prohibit a local educational agency from requiring a parent or guardian of a homeless child to submit contact information.

**(4) Comparable services**

Each homeless child or youth to be assisted under this part shall be provided services comparable to services offered to other students in the school selected under paragraph (3), including the following:

(A) Transportation services.

(B) Educational services for which the child or youth meets the eligibility criteria, such as services provided under title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.] or similar State or local programs, educational programs for children with disabilities, and educational programs for students with limited English proficiency.

(C) Programs in vocational and technical education.

(D) Programs for gifted and talented students.

(E) School nutrition programs.

**(5) Coordination**

**(A) In general**

Each local educational agency serving homeless children and youths that receives assistance under this part shall coordinate—

(i) the provision of services under this part with local social services agencies and other agencies or programs providing services to homeless children and youths and their families, including services and programs funded under the Runaway and

Homeless Youth Act (42 U.S.C. 5701 et seq.); and

(ii) with other local educational agencies on interdistrict issues, such as transportation or transfer of school records.

**(B) Housing assistance**

If applicable, each State educational agency and local educational agency that receives assistance under this part shall coordinate with State and local housing agencies responsible for developing the comprehensive housing affordability strategy described in section 12705 of this title to minimize educational disruption for children and youths who become homeless.

**(C) Coordination purpose**

The coordination required under subparagraphs (A) and (B) shall be designed to—

(i) ensure that homeless children and youths have access and reasonable proximity to available education and related support services; and

(ii) raise the awareness of school personnel and service providers of the effects of short-term stays in a shelter and other challenges associated with homelessness.

**(6) Local educational agency liaison**

**(A) Duties**

Each local educational agency liaison for homeless children and youths, designated under paragraph (1)(J)(ii), shall ensure that—

(i) homeless children and youths are identified by school personnel and through coordination activities with other entities and agencies;

(ii) homeless children and youths enroll in, and have a full and equal opportunity to succeed in, schools of that local educational agency;

(iii) homeless families, children, and youths receive educational services for which such families, children, and youths are eligible, including Head Start and Even Start programs and preschool programs administered by the local educational agency, and referrals to health care services, dental services, mental health services, and other appropriate services;

(iv) the parents or guardians of homeless children and youths are informed of the educational and related opportunities available to their children and are provided with meaningful opportunities to participate in the education of their children;

(v) public notice of the educational rights of homeless children and youths is disseminated where such children and youths receive services under this chapter, such as schools, family shelters, and soup kitchens;

(vi) enrollment disputes are mediated in accordance with paragraph (3)(E); and

(vii) the parent or guardian of a homeless child or youth, and any unaccompanied youth, is fully informed of all transportation services, including trans-

portation to the school of origin, as described in paragraph (1)(J)(iii), and is assisted in accessing transportation to the school that is selected under paragraph (3)(A).

**(B) Notice**

State coordinators established under subsection (d)(3) of this section and local educational agencies shall inform school personnel, service providers, and advocates working with homeless families of the duties of the local educational agency liaisons.

**(C) Local and State coordination**

Local educational agency liaisons for homeless children and youths shall, as a part of their duties, coordinate and collaborate with State coordinators and community and school personnel responsible for the provision of education and related services to homeless children and youths.

**(7) Review and revisions**

**(A) In general**

Each State educational agency and local educational agency that receives assistance under this part shall review and revise any policies that may act as barriers to the enrollment of homeless children and youths in schools that are selected under paragraph (3).

**(B) Consideration**

In reviewing and revising such policies, consideration shall be given to issues concerning transportation, immunization, residency, birth certificates, school records and other documentation, and guardianship.

**(C) Special attention**

Special attention shall be given to ensuring the enrollment and attendance of homeless children and youths who are not currently attending school.

**(h) Special rule for emergency assistance**

**(1) Emergency assistance**

**(A) Reservation of amounts**

Subject to paragraph (4) and notwithstanding any other provision of this subchapter, the Secretary shall use funds appropriated under section 11435 of this title for fiscal year 2009, but not to exceed \$30,000,000, for the purposes of providing emergency assistance through grants.

**(B) General authority**

The Secretary shall use the funds to make grants to State educational agencies under paragraph (2), to enable the agencies to make subgrants to local educational agencies under paragraph (3), to provide activities described in section 11433(d) of this title for individuals referred to in subparagraph (C).

**(C) Eligible individuals**

Funds made available under this subsection shall be used to provide such activities for eligible individuals, consisting of homeless children and youths, and their families, who have become homeless due to

home foreclosure, including children and youths, and their families, who became homeless when lenders foreclosed on properties rented by the families.

**(2) Grants to State educational agencies**

**(A) Disbursement**

The Secretary shall make grants with funds provided under paragraph (1)(A) to State educational agencies based on need, consistent with the number of eligible individuals described in paragraph (1)(C) in the States involved, as determined by the Secretary.

**(B) Assurance**

To be eligible to receive a grant under this paragraph, a State educational agency shall provide an assurance to the Secretary that the State educational agency, and each local educational agency receiving a subgrant from the State educational agency under this subsection shall ensure that the activities carried out under this subsection are consistent with the activities described in section 11433(d) of this title.

**(3) Subgrants to local educational agencies**

A State educational agency that receives a grant under paragraph (2) shall use the funds made available through the grant to make subgrants to local educational agencies. The State educational agency shall make the subgrants to local educational agencies based on need, consistent with the number of eligible individuals described in paragraph (1)(C) in the areas served by the local educational agencies, as determined by the State educational agency.

**(4) Restriction**

The Secretary—

(A) shall determine the amount (if any) by which the funds appropriated under section 11435 of this title for fiscal year 2009 exceed \$70,000,000; and

(B) may only use funds from that amount to carry out this subsection.

(Pub. L. 100-77, title VII, §722, as added Pub. L. 107-110, title X, §1032, Jan. 8, 2002, 115 Stat. 1990; amended Pub. L. 110-289, div. B, title IX, §2901(b), July 30, 2008, 122 Stat. 2875.)

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (c)(2)(B)(i), is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§450 et seq.) of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

The Elementary and Secondary Education Act of 1965, referred to in subsec. (g)(4)(B), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, as amended. Title I of the Act is classified generally to subchapter I (§6301 et seq.) of chapter 70 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of Title 20 and Tables.

The Runaway and Homeless Youth Act, referred to in subsec. (g)(5)(A)(i), is title III of Pub. L. 93-415, Sept. 7, 1974, 88 Stat. 1129, which is classified generally to subchapter III (§5701 et seq.) of chapter 72 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5601 of this title and Tables.

This chapter, referred to in subsec. (g)(6)(A)(v), was in the original “this Act”, meaning Pub. L. 100-77, July 22, 1987, 101 Stat. 482, as amended, known as the McKinney-Vento Homeless Assistance Act. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of this title and Tables.

PRIOR PROVISIONS

A prior section 11432, Pub. L. 100-77, title VII, §722, as added Pub. L. 103-382, title III, §323, Oct. 20, 1994, 108 Stat. 3957, related to grants for State and local activities for education of homeless children and youth, prior to the general amendment of this part by Pub. L. 107-110.

Another prior section 11432, Pub. L. 100-77, title VII, §722, July 22, 1987, 101 Stat. 525; Pub. L. 100-628, title VII, §702(a), Nov. 7, 1988, 102 Stat. 3245; Pub. L. 101-645, title VI, §612(b), Nov. 29, 1990, 104 Stat. 4735, related to grants for State and local activities for education of homeless children and youth, prior to the general amendment of this part by Pub. L. 103-382.

AMENDMENTS

2008—Subsec. (h). Pub. L. 110-289 added subsec. (h).

CHANGE OF NAME

Committee on Education and the Workforce of the House of Representatives changed to Committee on Education and Labor of the House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

**§ 11433. Local educational agency subgrants for the education of homeless children and youths**

**(a) General authority**

**(1) In general**

The State educational agency shall, in accordance with section 11432(e) of this title, and from amounts made available to such agency under section 11435 of this title, make subgrants to local educational agencies for the purpose of facilitating the enrollment, attendance, and success in school of homeless children and youths.

**(2) Services**

**(A) In general**

Services under paragraph (1)—

(i) may be provided through programs on school grounds or at other facilities;

(ii) shall, to the maximum extent practicable, be provided through existing programs and mechanisms that integrate homeless children and youths with non-homeless children and youths; and

(iii) shall be designed to expand or improve services provided as part of a school's regular academic program, but not to replace such services provided under such program.

**(B) Services on school grounds**

If services under paragraph (1) are provided on school grounds, schools—

(i) may use funds under this part to provide the same services to other children and youths who are determined by the local educational agency to be at risk of failing in, or dropping out of, school, subject to the requirements of clause (ii); and

(ii) except as otherwise provided in section 11432(e)(3)(B) of this title, shall not

provide services in settings within a school that segregate homeless children and youths from other children and youths, except as necessary for short periods of time—

- (I) for health and safety emergencies; or
- (II) to provide temporary, special, and supplementary services to meet the unique needs of homeless children and youths.

### **(3) Requirement**

Services provided under this section shall not replace the regular academic program and shall be designed to expand upon or improve services provided as part of the school's regular academic program.

### **(b) Application**

A local educational agency that desires to receive a subgrant under this section shall submit an application to the State educational agency at such time, in such manner, and containing or accompanied by such information as the State educational agency may reasonably require. Such application shall include the following:

- (1) An assessment of the educational and related needs of homeless children and youths in the area served by such agency (which may be undertaken as part of needs assessments for other disadvantaged groups).
- (2) A description of the services and programs for which assistance is sought to address the needs identified in paragraph (1).
- (3) An assurance that the local educational agency's combined fiscal effort per student, or the aggregate expenditures of that agency and the State with respect to the provision of free public education by such agency for the fiscal year preceding the fiscal year for which the determination is made, was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.
- (4) An assurance that the applicant complies with, or will use requested funds to comply with, paragraphs (3) through (7) of section 11432(g) of this title.
- (5) A description of policies and procedures, consistent with section 11432(e)(3) of this title, that the agency will implement to ensure that activities carried out by the agency will not isolate or stigmatize homeless children and youths.

### **(c) Awards**

#### **(1) In general**

The State educational agency shall, in accordance with the requirements of this part and from amounts made available to it under section 11435 of this title, make competitive subgrants to local educational agencies that submit applications under subsection (b) of this section. Such subgrants shall be awarded on the basis of the need of such agencies for assistance under this part and the quality of the applications submitted.

#### **(2) Need**

In determining need under paragraph (1), the State educational agency may consider the

number of homeless children and youths enrolled in preschool, elementary, and secondary schools within the area served by the local educational agency, and shall consider the needs of such children and youths and the ability of the local educational agency to meet such needs. The State educational agency may also consider the following:

(A) The extent to which the proposed use of funds will facilitate the enrollment, retention, and educational success of homeless children and youths.

(B) The extent to which the application—

- (i) reflects coordination with other local and State agencies that serve homeless children and youths; and
- (ii) describes how the applicant will meet the requirements of section 11432(g)(3) of this title.

(C) The extent to which the applicant exhibits in the application and in current practice a commitment to education for all homeless children and youths.

(D) Such other criteria as the State agency determines appropriate.

### **(3) Quality**

In determining the quality of applications under paragraph (1), the State educational agency shall consider the following:

(A) The applicant's needs assessment under subsection (b)(1) of this section and the likelihood that the program presented in the application will meet such needs.

(B) The types, intensity, and coordination of the services to be provided under the program.

(C) The involvement of parents or guardians of homeless children or youths in the education of their children.

(D) The extent to which homeless children and youths will be integrated within the regular education program.

(E) The quality of the applicant's evaluation plan for the program.

(F) The extent to which services provided under this part will be coordinated with other services available to homeless children and youths and their families.

(G) Such other measures as the State educational agency considers indicative of a high-quality program, such as the extent to which the local educational agency will provide case management or related services to unaccompanied youths.

### **(4) Duration of grants**

Grants awarded under this section shall be for terms not to exceed 3 years.

### **(d) Authorized activities**

A local educational agency may use funds awarded under this section for activities that carry out the purpose of this part, including the following:

- (1) The provision of tutoring, supplemental instruction, and enriched educational services that are linked to the achievement of the same challenging State academic content standards and challenging State student academic achievement standards the State establishes for other children and youths.

(2) The provision of expedited evaluations of the strengths and needs of homeless children and youths, including needs and eligibility for programs and services (such as educational programs for gifted and talented students, children with disabilities, and students with limited English proficiency, services provided under title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.] or similar State or local programs, programs in vocational and technical education, and school nutrition programs).

(3) Professional development and other activities for educators and pupil services personnel that are designed to heighten the understanding and sensitivity of such personnel to the needs of homeless children and youths, the rights of such children and youths under this part, and the specific educational needs of runaway and homeless youths.

(4) The provision of referral services to homeless children and youths for medical, dental, mental, and other health services.

(5) The provision of assistance to defray the excess cost of transportation for students under section 11432(g)(4)(A) of this title, not otherwise provided through Federal, State, or local funding, where necessary to enable students to attend the school selected under section 11432(g)(3) of this title.

(6) The provision of developmentally appropriate early childhood education programs, not otherwise provided through Federal, State, or local funding, for preschool-aged homeless children.

(7) The provision of services and assistance to attract, engage, and retain homeless children and youths, and unaccompanied youths, in public school programs and services provided to nonhomeless children and youths.

(8) The provision for homeless children and youths of before- and after-school, mentoring, and summer programs in which a teacher or other qualified individual provides tutoring, homework assistance, and supervision of educational activities.

(9) If necessary, the payment of fees and other costs associated with tracking, obtaining, and transferring records necessary to enroll homeless children and youths in school, including birth certificates, immunization or medical records, academic records, guardianship records, and evaluations for special programs or services.

(10) The provision of education and training to the parents of homeless children and youths about the rights of, and resources available to, such children and youths.

(11) The development of coordination between schools and agencies providing services to homeless children and youths, as described in section 11432(g)(5) of this title.

(12) The provision of pupil services (including violence prevention counseling) and referrals for such services.

(13) Activities to address the particular needs of homeless children and youths that may arise from domestic violence.

(14) The adaptation of space and purchase of supplies for any nonschool facilities made available under subsection (a)(2) of this section to provide services under this subsection.

(15) The provision of school supplies, including those supplies to be distributed at shelters or temporary housing facilities, or other appropriate locations.

(16) The provision of other extraordinary or emergency assistance needed to enable homeless children and youths to attend school.

(Pub. L. 100-77, title VII, § 723, as added Pub. L. 107-110, title X, § 1032, Jan. 8, 2002, 115 Stat. 2001.)

#### REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (d)(2), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, as amended generally. Title I of the Act is classified generally to subchapter I (§ 6301 et seq.) of chapter 70 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of Title 20 and Tables.

#### PRIOR PROVISIONS

A prior section 11433, Pub. L. 100-77, title VII, § 723, as added Pub. L. 103-382, title III, § 323, Oct. 20, 1994, 108 Stat. 3962, related to local educational agency grants for education of homeless children and youth, prior to the general amendment of this part by Pub. L. 107-110.

Another prior section 11433, Pub. L. 100-77, title VII, § 723, July 22, 1987, 101 Stat. 527; Pub. L. 100-628, title VII, § 702(b), Nov. 7, 1988, 102 Stat. 3245; Pub. L. 101-645, title VI, § 612(c), Nov. 29, 1990, 104 Stat. 4739, related to local educational agency grants for education of homeless children and youth, prior to the general amendment of this part by Pub. L. 103-382.

### § 11434. Secretarial responsibilities

#### (a) Review of State plans

In reviewing the State plan submitted by a State educational agency under section 11432(g) of this title, the Secretary shall use a peer review process and shall evaluate whether State laws, policies, and practices described in such plan adequately address the problems of homeless children and youths relating to access to education and placement as described in such plan.

#### (b) Technical assistance

The Secretary shall provide support and technical assistance to a State educational agency to assist such agency in carrying out its responsibilities under this part, if requested by the State educational agency.

#### (c) Notice

The Secretary shall, before the next school year that begins after January 8, 2002, create and disseminate nationwide a public notice of the educational rights of homeless children and youths and disseminate such notice to other Federal agencies, programs, and grantees, including Head Start grantees, Health Care for the Homeless grantees, Emergency Food and Shelter grantees, and homeless assistance programs administered by the Department of Housing and Urban Development.

#### (d) Evaluation and dissemination

The Secretary shall conduct evaluation and dissemination activities of programs designed to meet the educational needs of homeless elementary and secondary school students, and may use funds appropriated under section 11435 of this title to conduct such activities.

#### (e) Submission and distribution

The Secretary shall require applications for grants under this part to be submitted to the

Secretary not later than the expiration of the 60-day period beginning on the date that funds are available for purposes of making such grants and shall make such grants not later than the expiration of the 120-day period beginning on such date.

**(f) Determination by Secretary**

The Secretary, based on the information received from the States and information gathered by the Secretary under subsection (h) of this section, shall determine the extent to which State educational agencies are ensuring that each homeless child and homeless youth has access to a free appropriate public education, as described in section 11431(1) of this title.

**(g) Guidelines**

The Secretary shall develop, issue, and publish in the Federal Register, not later than 60 days after January 8, 2002, school enrollment guidelines for States with respect to homeless children and youths. The guidelines shall describe—

- (1) successful ways in which a State may assist local educational agencies to immediately enroll homeless children and youths in school; and
- (2) how a State can review the State's requirements regarding immunization and medical or school records and make such revisions to the requirements as are appropriate and necessary in order to enroll homeless children and youths in school immediately.

**(h) Information**

**(1) In general**

From funds appropriated under section 11435 of this title, the Secretary shall, directly or through grants, contracts, or cooperative agreements, periodically collect and disseminate data and information regarding—

- (A) the number and location of homeless children and youths;
- (B) the education and related services such children and youths receive;
- (C) the extent to which the needs of homeless children and youths are being met; and
- (D) such other data and information as the Secretary determines to be necessary and relevant to carry out this part.

**(2) Coordination**

The Secretary shall coordinate such collection and dissemination with other agencies and entities that receive assistance and administer programs under this part.

**(i) Report**

Not later than 4 years after January 8, 2002, the Secretary shall prepare and submit to the President and the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on the status of education of homeless children and youths, which shall include information on—

- (1) the education of homeless children and youths; and
- (2) the actions of the Secretary and the effectiveness of the programs supported under this part.

(Pub. L. 100-77, title VII, § 724, as added Pub. L. 107-110, title X, § 1032, Jan. 8, 2002, 115 Stat. 2004.)

PRIOR PROVISIONS

A prior section 11434, Pub. L. 100-77, title VII, § 724, as added Pub. L. 103-382, title III, § 323, Oct. 20, 1994, 108 Stat. 3964, related to Secretarial responsibilities, prior to the general amendment of this part by Pub. L. 107-110.

Another prior section 11434, Pub. L. 100-77, title VII, § 724, July 22, 1987, 101 Stat. 528; Pub. L. 101-645, title VI, § 612(d), Nov. 29, 1990, 104 Stat. 4742, related to national responsibilities, prior to the general amendment of this part by Pub. L. 103-382.

CHANGE OF NAME

Committee on Education and the Workforce of the House of Representatives changed to Committee on Education and Labor of the House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

**§ 11434a. Definitions**

For purposes of this part:

(1) The terms “enroll” and “enrollment” include attending classes and participating fully in school activities.

(2) The term “homeless children and youths”—

(A) means individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 11302(a)(1) of this title); and

(B) includes—

(i) children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;

(ii) children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of section 11302(a)(2)(C) of this title);

(iii) children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

(iv) migratory children (as such term is defined in section 6399 of title 20) who qualify as homeless for the purposes of this part because the children are living in circumstances described in clauses (i) through (iii).

(3) The terms “local educational agency” and “State educational agency” have the meanings given such terms in section 7801 of title 20.

(4) The term “Secretary” means the Secretary of Education.

(5) The term “State” means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(6) The term “unaccompanied youth” includes a youth not in the physical custody of a parent or guardian.

(Pub. L. 100-77, title VII, § 725, as added Pub. L. 107-110, title X, § 1032, Jan. 8, 2002, 115 Stat. 2005.)

PRIOR PROVISIONS

A prior section 11434a, Pub. L. 100-77, title VII, § 725, as added Pub. L. 103-382, title III, § 323, Oct. 20, 1994, 108



Stat. 3965, defined terms, prior to the general amendment of this part by Pub. L. 107-110.

Another prior section 11434a, Pub. L. 100-77, title VII, § 725, as added Pub. L. 101-645, title VI, § 613(2), Nov. 29, 1990, 104 Stat. 4743, related to reports by Comptroller General, prior to the general amendment of this part by Pub. L. 103-382.

A prior section 725 of Pub. L. 100-77 was renumbered section 726 and was classified to section 11435 of this title, prior to the general amendment of this part by Pub. L. 103-382.

#### § 11435. Authorization of appropriations

For the purpose of carrying out this part, there are authorized to be appropriated \$100,000,000 for fiscal year 2009 and such sums as may be necessary for each subsequent fiscal year.

(Pub. L. 100-77, title VII, § 726, as added Pub. L. 107-110, title X, § 1032, Jan. 8, 2002, 115 Stat. 2006; amended Pub. L. 110-289, div. B, title IX, § 2901(a), July 30, 2008, 122 Stat. 2875.)

#### PRIOR PROVISIONS

A prior section 11435, Pub. L. 100-77, title VII, § 726, as added Pub. L. 103-382, title III, § 323, Oct. 20, 1994, 108 Stat. 3965, authorized appropriations, prior to the general amendment of this part by Pub. L. 107-110.

Another prior section 11435, Pub. L. 100-77, title VII, § 726, formerly § 725, July 22, 1987, 101 Stat. 528; Pub. L. 100-628, title VII, § 702(c), Nov. 7, 1988, 102 Stat. 3245; renumbered § 726, Pub. L. 101-645, title VI, § 613(1), Nov. 29, 1990, 104 Stat. 4743, defined terms used in this part, prior to the general amendment of this part by Pub. L. 103-382.

#### AMENDMENTS

2008—Pub. L. 110-289 substituted “\$100,000,000 for fiscal year 2009 and such sums as may be necessary for each subsequent fiscal year” for “\$70,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2007”.

#### PART C—JOB TRAINING FOR HOMELESS

#### §§ 11441 to 11447. Repealed. Pub. L. 105-220, title I, § 199(a)(5), Aug. 7, 1998, 112 Stat. 1059

Section 11441, Pub. L. 100-77, title VII, § 731, July 22, 1987, 101 Stat. 528, authorized demonstration program for homeless individuals.

Section 11442, Pub. L. 100-77, title VII, § 732, July 22, 1987, 101 Stat. 528, related to State coordination with demonstration grant recipients.

Section 11443, Pub. L. 100-77, title VII, § 733, July 22, 1987, 101 Stat. 529; Pub. L. 101-645, title VI, § 621(a), Nov. 29, 1990, 104 Stat. 4743, related to application for grants.

Section 11444, Pub. L. 100-77, title VII, § 734, July 22, 1987, 101 Stat. 529, related to authorized activities.

Section 11445, Pub. L. 100-77, title VII, § 735, July 22, 1987, 101 Stat. 529, related to payments, Federal share, and limitations.

Section 11446, Pub. L. 100-77, title VII, § 736, July 22, 1987, 101 Stat. 530, related to evaluation of projects.

Section 11447, Pub. L. 100-77, title VII, § 737, July 22, 1987, 101 Stat. 530; Pub. L. 100-628, title VII, § 703(a), Nov. 7, 1988, 102 Stat. 3246, defined terms.

#### § 11448. Repealed. Pub. L. 107-95, § 5(e)(4), Dec. 21, 2001, 115 Stat. 918

Section, Pub. L. 100-77, title VII, § 738, July 22, 1987, 101 Stat. 530; Pub. L. 102-590, § 11(a), Nov. 10, 1992, 106 Stat. 5141; Pub. L. 104-110, title I, § 102(d)(1), Feb. 13, 1996, 110 Stat. 769; Pub. L. 104-275, title VI, § 601(b), Oct. 9, 1996, 110 Stat. 3344; Pub. L. 105-114, title II, § 203(c)(1), Nov. 21, 1997, 111 Stat. 2288, related to programs to expe-

dite the reintegration of homeless veterans into the labor force.

#### §§ 11449, 11450. Repealed. Pub. L. 105-220, title I, § 199(a)(5), Aug. 7, 1998, 112 Stat. 1059

Section 11449, Pub. L. 100-77, title VII, § 739, July 22, 1987, 101 Stat. 531; Pub. L. 100-628, title VII, § 703(b), (c), Nov. 7, 1988, 102 Stat. 3246; Pub. L. 101-165, title IX, § 9119(a), Nov. 21, 1989, 103 Stat. 1157; Pub. L. 101-645, title VI, § 621(b), Nov. 29, 1990, 104 Stat. 4744; Pub. L. 102-590, § 11(b)(1), Nov. 10, 1992, 106 Stat. 5141; Pub. L. 103-239, title VII, § 701(a), May 4, 1994, 108 Stat. 605, authorized appropriations.

Section 11450, Pub. L. 100-77, title VII, § 741, July 22, 1987, 101 Stat. 532; Pub. L. 101-645, title VI, § 621(c), Nov. 29, 1990, 104 Stat. 4744; Pub. L. 102-590, § 11(b)(2), Nov. 10, 1992, 106 Stat. 5141; Pub. L. 103-239, title VII, § 701(b), May 4, 1994, 108 Stat. 606; Pub. L. 104-110, title I, § 102(d)(2), Feb. 13, 1996, 110 Stat. 769; Pub. L. 105-114, title II, § 203(c)(2), Nov. 21, 1997, 111 Stat. 2288, provided for termination of this part on Dec. 31, 1999.

#### PART D—EMERGENCY COMMUNITY SERVICES HOMELESS GRANT PROGRAM

#### §§ 11461 to 11466. Repealed. Pub. L. 105-220, title I, § 199(b)(1), Aug. 7, 1998, 112 Stat. 1059

Section 11461, Pub. L. 100-77, title VII, § 751, July 22, 1987, 101 Stat. 532, established emergency community services homeless grant program.

Section 11462, Pub. L. 100-77, title VII, § 752, July 22, 1987, 101 Stat. 532; Pub. L. 100-628, title VII, § 704(a), Nov. 7, 1988, 102 Stat. 3246, related to allocation of grants.

Section 11463, Pub. L. 100-77, title VII, § 753, July 22, 1987, 101 Stat. 532; Pub. L. 100-628, title VII, § 704(b), (c), Nov. 7, 1988, 102 Stat. 3246; Pub. L. 101-645, title VI, § 631(a), (b), Nov. 29, 1990, 104 Stat. 4746, related to program requirements.

Section 11464, Pub. L. 100-77, title VII, § 754, July 22, 1987, 101 Stat. 533; Pub. L. 100-628, title VII, § 704(d), Nov. 7, 1988, 102 Stat. 3247; Pub. L. 101-645, title VI, § 631(c), Nov. 29, 1990, 104 Stat. 4746; Pub. L. 103-252, title II, § 206, May 18, 1994, 108 Stat. 656, authorized appropriations.

Section 11465, Pub. L. 100-77, title VII, § 755, as added Pub. L. 101-645, title VI, § 641, Nov. 29, 1990, 104 Stat. 4746, related to evaluation of services provided to homeless individuals.

Section 11466, Pub. L. 100-77, title VII, § 756, as added Pub. L. 101-645, title VI, § 641, Nov. 29, 1990, 104 Stat. 4747, required report by General Accounting Office.

#### EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1999, see section 199(c)(2)(A) of Pub. L. 105-220, set out as a note under section 11421 of this title.

#### PART E—MISCELLANEOUS PROVISIONS

#### §§ 11471, 11472. Repealed. Pub. L. 105-220, title I, § 199(b)(1), Aug. 7, 1998, 112 Stat. 1059

Section 11471, Pub. L. 100-77, title VII, § 761, July 22, 1987, 101 Stat. 533, authorized grant for study of causes of youth homelessness.

Section 11472, Pub. L. 100-77, title VII, § 762, July 22, 1987, 101 Stat. 533, related to set-asides for Native Americans.

#### EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1999, see section 199(c)(2)(A) of Pub. L. 105-220, set out as a note under section 11421 of this title.

## PART F—FAMILY SUPPORT CENTERS

**§§ 11481 to 11489. Repealed. Pub. L. 104-235, title I, § 142(b), Oct. 3, 1996, 110 Stat. 3089**

Section 11481, Pub. L. 100-77, title VII, § 771, as added Pub. L. 101-645, title VI, § 651, Nov. 29, 1990, 104 Stat. 4747, related to definitions for this part.

Section 11482, Pub. L. 100-77, title VII, § 772, as added Pub. L. 101-645, title VI, § 651, Nov. 29, 1990, 104 Stat. 4749; amended Pub. L. 103-382, title III, § 370(a), Oct. 20, 1994, 108 Stat. 3976, related to general grants for demonstration programs to encourage provision of support-services to low-income individuals and families.

Section 11483, Pub. L. 100-77, title VII, § 773, as added Pub. L. 101-645, title VI, § 651, Nov. 29, 1990, 104 Stat. 4752, related to requirement that family support grant recipients were to use not more than 7 percent of such grant to improve the retention and effectiveness of staff and volunteers.

Section 11484, Pub. L. 100-77, title VII, § 774, as added Pub. L. 101-645, title VI, § 651, Nov. 29, 1990, 104 Stat. 4752; amended Pub. L. 103-382, title III, § 370(d), Oct. 20, 1994, 108 Stat. 3977, related to family case managers.

Section 11485, Pub. L. 100-77, title VII, § 775, as added Pub. L. 101-645, title VI, § 651, Nov. 29, 1990, 104 Stat. 4752, related to Gateway programs.

Section 11486, Pub. L. 100-77, title VII, § 776, as added Pub. L. 101-645, title VI, § 651, Nov. 29, 1990, 104 Stat. 4754, related to evaluation of programs and entities that received assistance under this subchapter.

Section 11487, Pub. L. 100-77, title VII, § 777, as added Pub. L. 101-645, title VI, § 651, Nov. 29, 1990, 104 Stat. 4754; amended Pub. L. 103-382, title III, § 370(b), Oct. 20, 1994, 108 Stat. 3977, related to submission of reports to Congress by the Secretary.

Section 11488, Pub. L. 100-77, title VII, § 778, as added Pub. L. 101-645, title VI, § 651, Nov. 29, 1990, 104 Stat. 4755, provided that nothing in this part was to be construed to modify Federal selection preferences described in section 1437d of this title or authorized policies and procedures of governmental housing authorities operating under annual assistance contracts pursuant to section 1437 et seq. of this title with respect to admissions, tenant selection and evictions.

Section 11489, Pub. L. 100-77, title VII, § 779, as added Pub. L. 101-645, title VI, § 651, Nov. 29, 1990, 104 Stat. 4755; amended Pub. L. 103-382, title III, § 370(c), Oct. 20, 1994, 108 Stat. 3977, authorized appropriations to carry out this part.

**CHAPTER 120—ENTERPRISE ZONE DEVELOPMENT**

Sec.	
11501.	Designation of enterprise zones.
11502.	Evaluation and reporting requirements.
11503.	Interaction with other Federal programs.
11504.	Waiver or modification of housing and community development rules in enterprise zones.
11505.	Coordination with CDBG and UDAG programs.

**§ 11501. Designation of enterprise zones****(a) Designation of zones****(1) “Enterprise zone” defined**

For purposes of this section, the term “enterprise zone” means any area that—

(A) is nominated by one or more local governments and the State or States in which it is located for designation as an enterprise zone (in this section referred to as a “nominated area”); and

(B) the Secretary of Housing and Urban Development designates as an enterprise zone, after consultation with—

(i) the Secretaries of Agriculture, Commerce, Labor, and the Treasury, the Director of the Office of Management and Budget, and the Administrator of the Small Business Administration; and

(ii) in the case of an area on an Indian reservation, the Secretary of the Interior.

**(2) Number of designations****(A) In general**

The Secretary of Housing and Urban Development may designate not more than 100 nominated areas as enterprise zones.

**(B) Minimum designation in rural areas**

Of the areas designated under subparagraph (A), not less than  $\frac{1}{3}$  shall be areas that—

(i) are within a local government jurisdiction or jurisdictions with a population of less than 50,000 (as determined under the most recent census data available);

(ii) are outside of a metropolitan statistical area (as designated by the Director of the Office of Management and Budget); or

(iii) that are determined by the Secretary, after consultation with the Secretary of Commerce, to be rural areas.

**(3) Areas designated based solely on degree of poverty****(A) In general**

Except as provided in subparagraph (B), the Secretary shall designate (i) the nominated areas with the highest average ranking with respect to the criteria set forth in subparagraphs (C) and (D) of subsection (c)(3) of this section, and the 1 criterion set forth in subparagraph (E)(i) or (E)(ii) of subsection (c)(3) of this section that gives an area a higher ranking; and (ii) for areas described in paragraph (2)(B), the nominated areas with the highest ranking with respect to the 1 criterion set forth in subparagraph (C), (D), (E)(i), or (E)(ii) of subsection (c)(3) of this section that gives an area a higher ranking. For purposes of the preceding sentence, an area shall be ranked within each such criterion on the basis of the amount by which the area exceeds such criterion, with the area that exceeds such criterion by the greatest amount given the highest ranking.

**(B) Exception where inadequate course of action, etc.**

An area shall not be designated under subparagraph (A) if the Secretary determines that the course of action with respect to such area is inadequate.

**(C) Separate application to rural and other areas**

Subparagraph (A) shall be applied separately with respect to areas described in paragraph (2)(B) and to other areas.

**(4) Limitation on designations****(A) Publication of regulations**

Before designating any area as an enterprise zone, the Secretary shall prescribe by regulation not later than 4 months following February 5, 1988, after consultation with the officials described in paragraph (1)(B)—